



# Office of Youth and Community Restoration

Ombudsperson Division

California Health & Human Services Agency

TO: Juvenile Titles 15 and 24 Regulations Revision Executive Steering Committee

FROM: Alisa Hartz, Ombudsperson, Office of Youth and Community Restoration

DATE: 7 October 2025

RE: OYCR Ombudsperson Complaints Relating to Oleoresin Capsicum (OC) Spray

## Background

Current Title 15 Minimum Standards for Juvenile Facilities require juvenile facilities to have a policy mandating that "chemical agents only be used when there is an imminent threat to the youth's safety or the safety of others and only when de-escalation efforts have been unsuccessful or are not reasonably possible.<sup>1</sup>" Six counties in California (Marin, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano) do not use OC spray (also known as pepper spray) and Los Angeles has a ban that has not been implemented.

California is one of 13 states that allow the use of OC spray in juvenile facilities and one of 6 states that authorizes staff to carry OC spray. According to a 2019 survey by the Council of Juvenile Correctional Administrators,<sup>2</sup> 37 states have banned the use of OC spray in juvenile facilities. 13 states (Arizona, California, Georgia, Illinois, Indiana, Minnesota, Mississippi, Nevada, New Jersey, Oklahoma, Tennessee, Texas, and Wisconsin) and Puerto Rico permit the use of OC spray in juvenile facilities. Six states (California, Illinois, Indiana, Minnesota, Nevada, and Texas) and Puerto Rico allow OC spray to be regularly carried by staff in juvenile facilities.

OC spray has documented physiological consequences including respiratory effects, intense eye pain and temporary visual impairment, skin irritation and burns, and allergic reactions.<sup>3</sup> Youth facilities often have poor ventilation and confined spaces, exacerbating the consequences of pepper spray on both youth and staff. OC spray is

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<sup>1</sup> Title 15, Cal. Code of Regulations, section 1357

<sup>2</sup> Council of Juvenile Justice Administrators, Pepper Spray in Juvenile Facilities, available at <https://cjja.net/wp-content/uploads/2023/08/2020-OC-Spray-pgs-4-and-5.pdf>

<sup>3</sup> See, e.g., Tidwell, R. (2023) [Tear Gas and Pepper Spray Toxicity](#).

contraindicated for many groups of youth, including youth with mental illness and youth taking psychotropic medication.<sup>4</sup>

Additionally, psychological impacts of OC spray can cause trauma for youth who have already experienced significant trauma in their lives including familial and incarceration trauma. The fear that OC spray may be deployed at any time can cause a constant hypervigilant state characteristic of trauma-related disorders. The American Psychiatric Association does not support the use of weapons as a clinical response in the management of patients with behavioral dyscontrol because it conflicts with the therapeutic mission and has negative consequences.<sup>5</sup> The therapeutic relation between youth and probation officers is disrupted by the use of OC spray.<sup>6</sup>

Proponents of OC spray assert that probation staff deploy OC spray infrequently but that it is a necessary tool and there are no consistent reporting standards followed documenting use of pepper OC spray. The lack of data transparency around the use of OC spray makes this assertion difficult to evaluate. While facilities are required to keep records of the deployment of OC spray, as for all uses of force, that information is not required to be publicly reported to the BSCC or to any other agency, and some counties have declined to provide the information in response to Public Records Act requests.<sup>7</sup>

### **OYCR Ombuds Division Findings – Substantiated/Confirmed Misuse of OC Spray**

The OYCR Ombuds Division receives complaints relating to youth in juvenile facilities, including complaints alleging rights violations involving OC spray. In the past three years, the Ombuds Division has substantiated or otherwise confirmed through video evidence, incident reports, and/or department confirmation, that OC spray has been used in scenarios where there was not an imminent threat to the youth's safety or the safety of others and/or where de-escalation efforts were not appropriately undertaken. Substantiated or validated scenarios include the following:

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<sup>4</sup> See, e.g., Center for Children's Law and Policy, *Fact Sheet: Chemical Agents in Juvenile Facilities* (May 14, 2012) p. 2 <<http://www.cclp.org/wp-content/uploads/2016/06/Fact-Sheet-Chemical-Agents-Final-5-14-12.pdf>> (as of Mar. 10, 2023); C. Gregory Smith & Woodhall Stopford, *Health Hazards of Pepper Spray*, 60 North 268 (1999); Michael Cohen, *The Health Effects of Pepper Spray: A Review of the Literature and Commentary*, 4 J. CORRECTIONAL HEALTH CARE 73 (1997).

<sup>5</sup> American Psychiatric Association (2018) *Position Statement on Weapons Use in Hospitals and Patient Safety*.

<sup>6</sup> Bell, F. (1998). Police Use of CS Spray: Implications for NHS Mental Health Services. United Kingdom; Los Angeles Probation Oversight Commission (2022). Oleoresin Capsicum (OC) Spray Deployment Summary June 1, 2022 - September 30, 2022. Los Angeles.

<https://www.scribd.com/document/615816458/Probation-Oversight-Commission-Oleoresin-Capsicum-OC-Spray-Deployment-Summary-June-1-2022-September-30-2022#>

<sup>7</sup> ACLU (2019). *Toxic Treatment: The Abuse of Tear Gas Weapons in California Juvenile Detention*. [https://www.aclusocal.org/sites/default/files/aclu\\_socal\\_toxic\\_treatment\\_report\\_2019.pdf](https://www.aclusocal.org/sites/default/files/aclu_socal_toxic_treatment_report_2019.pdf)

- A youth was slowly walking through the unit away from staff with arms in the air, and the staff followed closely behind, repeatedly spraying the youth with OC spray.
- A youth who did not want to return to his room early climbed on top of a bookcase. Although de-escalation efforts were making progress, one staff threatened the youth with OC spray and then sprayed while the youth was on top of the bookcase. The youth had pulled their shirt over his face while on top of the bookcase in anticipation of the spray.
- A youth left a conversation with staff and positioned himself close to a wall, facing it and standing still, making no gestures. A staff came over to the youth and reached around the youth's body to spray OC spray multiple times in the face, first wrapping the youth's arm around from one side, then from the other.
- OC spray was deployed in the context of a fight involving multiple youth. Two youth who were not involved in an incident and were already on the floor in cover position were sprayed. Another youth left the active group in an attempt to assume the cover position and was sprayed by three staff simultaneously.
- Two female youth refused to go to their rooms after recreation and were sitting on the ground in the day room. They were sprayed with OC spray to get them to comply with the cover command.

Additionally, the Ombuds Division has confirmed at least two instances of OC spray being used on youth to prepare them to be extracted from their rooms, in one case involving a suicidal youth displaying mental health issues.

### **Alleged/Unconfirmed Misuse of OC Spray**

In addition to these confirmed misuses of OC spray, the Ombuds Division has encountered numerous allegations or references to misuse of OC spray that were not substantiated due to lack of available evidence that would support an impartial conclusion or submitted to Ombuds staff either as informational items or during site visit interviews. While not verified, these complaints are meaningful information about youth experience and perception of their own experience. Notably, the Ombuds Division is aware of at least 28 allegations or mentions of using OC spray as a threat in at least 10 counties. Concerns about overuse or misuse of OC spray were also raised during at least 12 site visits. Delayed or inadequate OC spray decontamination is also raised frequently as a youth concern.

### **Recommendations**

Should the Executive Steering Committee not decide to promote a prohibition on the use of OC spray, the OYCR Ombuds Division recommends, in addition to the changes already proposed in section 1357, the following:

- Restrict the use of OC spray to incidents involving active or imminent physical or threatened physical assault on youth or staff;
- Report quarterly to the BSCC the number of uses of force with the number of OC spray deployments disaggregated, to document how often OC spray is being used around the state;
- Prohibit staff from carrying OC spray on their belt or limit the staff who may carry it, to prevent OC spray from being used on impulse or inappropriately, as a threat or a means to obtain compliance from youth who are disregarding orders but not posing an active threat to other youth or staff.