

COUNTY OF KINGS
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KINGS COUNTY GOVERNMENT CENTER
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May 21, 2018

Sent via email only

Ian Kysel, Staff Attorney
ACLU of Southern California
Orange County Office
1851 E. First Street, Suite 450
Santa Ana, CA 92705
ikysel@ACLUSoCal.org

Re: County of Kings' response to your May 9, 2018 request for records under the California Public Records Act ("the Act").

Dear Mr. Kysel,

This office is in receipt of your request for records under the Act as sent to the Kings County Probation Department ("Probation") on the date set forth above. After review of your request and a search of its records, the County of Kings ("County") provides the following response and documents:

- 1) Policies and Procedures. The County will provide the policies and procedures that are responsive to your request to the extent such records exist.
- 2) Training Materials. The County will provide the training materials that are responsive to your request to the extent such materials exist.
- 3) Data.
 - a) Any and all data on the use of chemical agents between January 1, 2015 to March 31, 2018. The County does not maintain aggregate data as sought in your request. However, the County was able to perform a manual count of the number of incidents from 2016 to March 31, 2018. These numbers are set forth below:
 1. OC deployment:
 - i. 2016 – 81.
 - ii. 2017 – 39.
 - iii. Jan. 1, 2018 – March 31, 2018 – 3.

2. Records of injury to staff:
 - i. 2016 – 3 (physical altercations).
 - ii. 2017 – 5 (physical altercations).
 - iii. Jan. 1, 2018 – March 31, 2018 – 0.

3. Records of injury to youth:
 - i. 2016 – 5 (combative youth) and 23 (physical altercation).
 - ii. 2017 – 3 (combative youth) and 20 (physical altercation).
 - iii. Jan. 1, 2018 – March 31, 2018 – 1 (combative youth).

- b) Individual data of specific instances of use of chemical agents. Other than as provided, above, the County will not produce the records sought as such records are part of the custodial files of youth detained in the County's juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Said records may also be confidential juvenile court records under Section 827 of the Welfare and Institutions Code.
- c) Copies of any and all videos or other audio/visual records of use of force or cell/room extraction involving the use of chemical agents. The County will not produce the records sought as such records are part of the custodial files of youth detained in the County's juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Said records may also be confidential juvenile court records under Section 827 of the Welfare and Institutions Code.
- d) Copies of any notification of parents or guardians after chemical agent use. The County will not produce the records sought as such records are part of the custodial files of youth detained in the County's juvenile detention facility. (See Gov. Code § 6254, subd. (f).)
- e) Copies of any and all complaints/grievances made regarding the use of chemical agents, including responses. The County will not produce the records sought as such records are part of the custodial files of youth detained in the County's juvenile detention facility. (See Gov. Code § 6254, subd. (f).)
- f) Copies of any and all incident reports or other reports related to use of chemical agents. The County will not produce the records sought as such records are part of the custodial files of youth detained in the County's juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Said records may also be confidential juvenile court records under Section 827 of the Welfare and Institutions Code.
- g) Copies of any and all internal reviews related to use of chemical agents conducted. The County will not produce the records sought as such records are part of the County's security files with regard to the operation of its juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Moreover, such records would be part of an individual employee's personnel file, and are therefore further exempted from disclosure under the Act. (Gov. Code § 6254, subd. (c).)

- h) Records showing any staff disciplined in connection with use of chemical agents, including allegations, findings, and any disciplinary actions taken. The County will not produce the records sought as such records are part of an individual employee's personnel file, and are therefore exempt from disclosure under the Act. (Gov. Code § 6254, subd. (c).)
- i) Records showing number and volume of all containers or units of chemical agents currently maintained or stored for use. The County requests an additional two (2) weeks to finish its search for responsive records and a determination as to whether the records are subject to any exemptions under the Act.
- j) Records showing number and volume of all containers or units of chemical agents purchased per month, quarter, and year (and the total cost for such purchases). The County requests an additional two (2) weeks to finish its search for responsive records and a determination as to whether the records are subject to any exemptions under the Act.
- k) Records showing number and volume of all containers or units of chemical agents destroyed or discarded each month, quarter, or year. The County requests an additional two (2) weeks to finish its search for responsive records and a determination as to whether the records are subject to any exemptions under the Act.
- l) Copies of any and all studies, inspection or accreditation reports, audits, or analyses relating to the facilities conducted internally or by outside agencies or organizations that mention chemical agents. The County requests an additional two (2) weeks to finish its search for responsive records.
- m) Strategic plans, committee reports, briefings, data, memoranda, final agendas, meeting minutes, or other documents or materials relating to the use of pepper spray. The County will not produce the records sought as such records are part of the County's security files relating to the operation of its juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Any such records are also exempt from disclosure as they come within the deliberative process privilege as they reveal "the mental processes by which a given decision was reached" as well as the "substance of conversations, discussions, debates, deliberations and like materials reflecting advice, opinions, and recommendations by which government policy is processed and formulated." (*Regents of University of California v. Superior Court* (1999) 20 Cal.4th 509, 540.)
- n) Draft and final memoranda, documents, or guidance materials or directives, including but not limited to those addressing changes to policies, procedures, and training materials disclosed in response to this request as prepared by Probation related to the use of chemical agents. The County will not produce the records sought as such records are part of the County's security files relating to the operation of its juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Any such records are also exempt from disclosure as they come within the deliberative process privilege as they reveal "the mental processes by which a given decision was reached" as well as the "substance of

conversations, discussions, debates, deliberations and like materials reflecting advice, opinions, and recommendations by which government policy is processed and formulated.” (*Regents of University of California v. Superior Court* (1999) 20 Cal.4th 509, 540.)

- o) Copies of any approvals of denials of any proposed changes to policies, procedures, trainings, or guidelines, including but not limited to those addressing changes to policies, procedures, and training materials disclosed in response to this request as prepared by probation and related to the use of chemical agents. The County will not produce the records sought as such records are part of the County’s security files relating to the operation of its juvenile detention facility. (See Gov. Code § 6254, subd. (f).) Any such records are also exempt from disclosure as they come within the deliberative process privilege as they reveal “the mental processes by which a given decision was reached” as well as the “substance of conversations, discussions, debates, deliberations and like materials reflecting advice, opinions, and recommendations by which government policy is processed and formulated.” (*Regents of University of California v. Superior Court* (1999) 20 Cal.4th 509, 540.)

The County will produce its responsive documents electronically as requested. Due to the size limitations in our email system, this may require multiple emails. If you would prefer to use a document sharing service instead, please let me know and I can upload the documents to your preferred platform for your retrieval. I will hold off on producing the above records until I hear from you on how you would prefer to handle production.

If you have any questions or concerns, please feel free to contact me at the address above, via telephone at 559.852.2454, or by email at Carrie.Woolley@co.kings.ca.us. Thank you.

Sincerely,

COLLEEN CARLSON
County Counsel



CARRIE R. WOOLLEY
Deputy County Counsel

PL: 182384



KINGS COUNTY JUVENILE CENTER

OFFICE LOCATION:
1450 FORUM DRIVE
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KELLY M. ZUNIGA
Chief Probation Officer

LEONARD A. BAKKER II
Deputy Chief - Director

CARLA D. CORBETT
Juvenile Corrections Manager

To: Carrie Woolley
Deputy County Counsel

From: Leonard A. Bakker II
Deputy Chief / Director, Kings Juvenile Center

Date: May 14, 2018

Subject: PRA Request – Chemical Agents

Below is the number of times OC Pepper Spray was deployed per year and injuries to staff and youth:

<u>YEAR</u>	<u>OC DEPLOYMENT</u>	<u>STAFF INJURY</u>	<u>YOUTH INJURY</u>
2016	81	3 – Physical Altercation	5 – Combative Youth 23 – Physical Altercation
2017	39	5 – Physical Altercation	3 – Combative Youth 20 – Physical Altercation
(Jan. 1 – March 31, 2018) 2018	3	0 Injuries	1 – Combative Youth

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Use of Force

Notes and References

I. Introduction

This policy will set the standards for staff to follow to ensure the physical safety and security of the youth, staff, and visitors within the facility.

A. Definitions

1. Force

Force, in the context of a juvenile facility, is defined as the use of hands, other parts of the body, objects, instruments, chemical devices, or other physical methods by an objective, trained, and competent Institutions Peace Officer staff, faced with similar facts and circumstances, to subdue an attacker, overcome resistance, effect custody or gain compliance with a lawful order.

2. Reasonable Force

The amount of force that an objective, trained, and competent Juvenile Corrections Officer, faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

3. Unnecessary Force

The use of force that an objective, trained, and competent Juvenile Corrections Officer, faced with similar facts and circumstances, would consider unnecessary to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

4. Excessive Force

The use of more force than an objective, trained, and competent Juvenile Corrections Officer, faced with similar facts and circumstances would use to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

5. Deadly Force

Any use of force that is likely to result in death.

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Use of Force (continued)

- 6. Great Bodily Injury
An injury that creates a substantial risk of death.
- 7. Non-Deadly Force
A use of force option which is greater than verbal persuasion but less than force that is likely to result in death.

II. Purpose and Scope

- A. Use of force in non-emergencies should be used only after clear, specific and understandable verbal directives are not followed. The amount of force used shall be reasonable and appropriate to the situation.
- B. When dealing with aggressive youth, it is necessary that staff use **ONLY** the level of physical intervention/restraint (defensive force control instruments) that is needed to immediately stop the aggressive behavior and ensure the safety of others. If physical intervention/restraint becomes necessary, staff should exert only the level of physical intervention/restraint on the aggressive youth which is needed to bring the situation **immediately under control** and ensure that no further injuries are suffered by staff or by non-aggressive youth.
- C. The immediate safety and security of staff and non-aggressive youth is our primary responsibility.
 - 1. The level of defensive force deployed should only be that level appropriate to control a resistive, aggressive, or violent youth/ward and/or overcome said resistance, while ensuring the safety and security of staff, non-aggressive youth, and the involved youth.
 - 2. The primary objective in any deployment of defensive force and/or defensive force instruments is the safety of staff, non-aggressive youth, involved youth, and the security of the facility.
 - 3. All defensive force strategies and/or instruments will always be based upon what is reasonable, available, and appropriate given the immediate circumstances.

Notes and References

Sections 1712 and 1752, Welfare and Institutions Code.
Reference: Section 1752, Welfare and Institutions Code; and Sections 147, 149, 830.5, 835, and 843, Penal Code.

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Use of Force (continued)

**Notes and
References**

4. The use of force **SHALL BE AVOIDED** when possible. Force shall never be deployed for reasons of discipline, treatment, punishment or in retaliation for a violator's resistive, aggressive, or violent acts or any other acts. When applying physical intervention/restraint, staff must not allow adrenaline, anger or emotion to cause a loss of control and judgment. It is important that staff develop and utilize professional strategies according to the continuum of force that stress and reinforce emotional control, judgment, and quality decision-making abilities under stress.
5. **Corporal punishment is prohibited under any circumstances. Any use of corporal punishment or improper application of force will result in disciplinary action.**
 - a. All staff observing unnecessary or excessive use of force or corporal punishment are required to intervene and attempt to stop the inappropriate use of force or corporal punishment, report it immediately to the shift supervisor on duty in the facility,
 - b. Staff will document their observations in an Incident Report prior to leaving the facility at the end of their shift. The supervisor will report the event up the chain of command.
 - c. The Director and Captain will be notified **immediately** of any improper application of force or any use of force which results in injury to a youth or staff member.
6. Training
 - a. Training in areas such as verbal judo, verbal assertiveness, and crisis counseling emphasize this department's stance on using alternatives to force whenever possible. Staff will attend as directed.

III. Restraint/Control Policy

- A. In restraint and control situations, staff may utilize only those control and restraining techniques and devices which are approved and/or provided by the Kings County Probation Department and in which the employee has successfully completed approved training.

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**Notes and
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- B. The use of force should be avoided whenever possible. **Youth will not be physically restrained in situations where control can be gained through the use of staff presence or dialogue/counseling.**
- C. It is expected that staff will use good judgment, decision-making skills, and teamwork to control a situation.
- D. At every level of the defensive force continuum, staff can always increase the degree of force within the level if needed to control the situation without going to another, higher level of force. For example, staff presence may be used by one staff and be increased by including more than one staff member.
- E. When a physical restraint is used, staff members must escalate or de-escalate the use of force as the youth's resistance or behavior changes. The amount of force used will not exceed the amount of force necessary to control the youth.
- F. Juvenile institutions staff may restrain or control a youth under the following circumstances:
 - 1. For self-defense
 - 2. For defense of another staff member or youth(s)
 - 3. To prevent escape
 - 4. To overcome resistance when a youth(s)/ward(s) is physically aggressive
 - 5. To effect an arrest
 - 6. During transportation of a youth from one location to another
 - 7. When there is a documentable, articulable threat to the safety or security of staff or the facility as a result of a youth's actions.
- G. Levels of defensive force deployed should always be based upon what is reasonable and appropriate, given the individual circumstances. Youth's actions and behaviors dictate which levels of appropriate and reasonable defensive force may be deployed.

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Use of Force (continued)

**Notes and
References**

- H. Strategies for physical restraint and control or immobilization of a youth through the use of hands-on defensive force control instruments include, but are not limited to:
 - 1. Staff presence (or multiple staff)
 - 2. Dialogue/counseling
 - 3. Verbal commands
 - 4. Control and search techniques
 - 5. Oleoresin Capsicum (OC) pepper aerosol sprays
 - 6. Mechanical restraints
 - 7. Unarmed defensive tactics
- I. The above listing is not to be construed as meaning that the force options are to be used only in the order listed. Force used is to be appropriate to the individual event. Mechanical restraints, OC, control and search techniques, unarmed defensive tactics, or other techniques requiring training, are to be utilized only after staff members have successfully completed departmental approved training in the specific topic.

IV. Use of Force Options and Protocol

- A. Staff presence: This is the first option to the maintenance of a good institutional facility and the prevention of situations requiring physical intervention. It is the effect that staff's honesty, professionalism, integrity, pride and reputation for fairness has on a youth's behavior. These characteristics, to be effective, must be consistently maintained. When needed to control behavior, the involvement of multiple staff members is encouraged.
- B. Dialogue and counseling: This option is the staff's ability to gain control of the situation through the use of verbalized techniques. Dialogue properly used on a daily basis can become the only option necessary in most control situations. Dialogue, including counseling efforts, may also be the single most successful option available.

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**Notes and
References**

- C. Verbal commands: Staff should give clear, direct verbal commands to youth while employing command presence. During volatile situations, dialogue/counseling may not be sufficient to control a situation.
- D. OC: The use of departmentally issued OC spray is permitted under Section 12403 of the California Penal Code. After having completed the required training on use of OC, juvenile institutions staff may use OC under the following conditions:
 - 1. OC may be used within the scope of staff peace officer authority to control, restrain, or subdue imminent or actual violent behavior or if such behavior presents a clear danger.
 - 2. Before OC may be used, consideration must first be given to the gravity of the situation, the consequences that may reasonably be expected to occur if the behavior does not cease.
 - 3. OC will be used only after making a reasonable effort to verbally obtain voluntary compliance and after giving a clear warning that OC will be used if such voluntary compliance is not forthcoming.
 - a. The only exception to the above is when the behavior exhibited is of such nature that even momentary delay would result in further injury to a person.
 - 4. OC shall **not** be dispensed within a moving vehicle. During transportation of youth, OC will be used only in physically threatening situations or escapes/attempted escapes.
 - 5. OC may be used prior to the use of hands-on restraints or mechanical restraints in order to gain control of an aggressive youth. Staff may elect to use empty hands or mechanical restraints first if they can do so without risking injury to themselves or to the youth or if OC is not immediately available.
 - 6. OC shall not be used for punishment, retaliation, or disciplinary purposes. Staff are to ensure that no greater amount of OC is used than is necessary to gain control of the situation and subdue the youth.

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**Notes and
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7. If possible, staff should avoid deploying OC against youth who have the following medical histories or profiles:
 - a. Severe Asthmatic
 - b. Pregnancy
 - c. Cystic Fibrosis
8. The facility Director/Captain and/or Chief Probation Officer shall designate those persons authorized to use OC within the scope of their staff employment at the Kings Juvenile Center. The staff must:
 - a. Have completed the approved 832 PC and chemical agents course that includes OC spray training.
 - b. Be on duty and authorized through the chain of command to have possession of OC.
 - c. Have read and signed for the Kings County Probation Department Policy on OC
9. Specifically, the following positions are authorized to possess and utilize OC while on duty after meeting the requirements of section 8 (above):
 - a. Deputy Chief Probation Officer, Director
 - b. Deputy Probation Officers
 - c. Juvenile Corrections Officers

Extra help staff may be considered for authorization to carry OC following the completion of mandated training, during the course of their assigned work hours.

10. Canisters of OC shall be controlled and accounted for as follows:
 - a. The Corrections Captain or designee will issue a new canister to approved staff. Empty canisters will be collected by the Captain and disposed of properly.

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**Notes and
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- b. Canisters must be secured in the designated storage location if not in use.
 - c. Under no circumstances are staff to remove canisters from the institution unless they are in pursuit of an escapee, or participating in transportation or ground searches.
 - d. Each staff member receiving a canister is responsible for determining that it is more than half full and keeping the OC activated by shaking the canister at the beginning of each shift. While on shift, OC canisters must be secured on duty belt when not actively in use.
 - e. Stored canisters are not to be in an area of extreme heat.
11. For optimum usage, OC should not be activated at a target distance of less than 6-10 feet. An effort should be made to hit the facial area with the spray.
12. Aftercare/Decontamination procedures:
- a. In all cases where OC is deployed, once the youth has been controlled and restrained, the youth must be immediately removed to a safe area where decontamination can take place.
 - b. The decontamination process for OC involves fresh air and water. The youth should be provided with a clean towel. Water should be sprayed into the face of the youth while the eyes are closed. The youth should not wipe his/her face but may blot dry. This process should be repeated as needed.
 - c. Youth should be advised not to decontaminate by washing with warm water and soap. Warm water will open skin pores and increase discomfort. Using soap or any oil or cream-based products will also increase discomfort. Advise the youth to decontaminate first by using cool water alone. After decontamination, use warm water only. Warm water and soap may be used the following day or later the same evening.
 - d. All youth sprayed with OC must be referred to medical personnel. If no medical staff are available on site, NaphCare nursing staff shall be contacted at the Kings County Jail.
 - e. Staff must observe all youth who have been sprayed with OC until medically cleared.

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- f. Any staff contaminated with OC should follow the same basic regimen.
- g. The same procedures should be followed by any agency bringing in any youth who has been sprayed with OC. All staff should be alerted to any youth who have been sprayed with OC; the prospective youth should have been medically cleared, with this clearance obtained by the arresting agency prior to being accepted by institution staff for booking.

E. Documentation

- 1. The use of physical force and/or OC shall be reported in writing on an Incident Report. The individual applying the force or restraint shall be responsible for completing the incident report before the end of his/her shift during which the use occurred or before leaving the premises. The Incident Report will be submitted to the Shift Supervisor and the Director & Captain for review. Other officers on duty shall write an Incident Report as to their observation or participation in the incident. Only the officer deploying force, restraint or OC shall indicate such in the detail-type portion of their Incident Report.
 - a. The lead JCO on shift will approve the report(s) before the end of his/her shift during which the use occurred or before leaving the premises. The lead JCO will submit the incident report to the Director and Captain within the same time limits.
 - b. The lead JCO will also complete the Supervisors Use of Force form and attach to incident reports.

These reports shall depict:

- i. A clear and factual justification for the use of force/OC or restraints
- ii. A description of how the force/OC was utilized and the results obtained
- iii. A complete description of the aftercare procedures and/or medical referral/treatment

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**Notes and
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F. Use of force/restraint referrals

1. In any instance when a youth is physically restrained and/or exposed to the use of OC, referrals will be made to the medical staff and Mental Health staff.
2. In any instance when a youth is injured through the use of empty hands or mechanical restraint, a referral will be made to the medical staff.
3. If as a result of any restraint, the youth appears to have significant injuries that cannot wait until he/she is seen by clinical staff; the shift supervisor will contact the on-call Deputy Probation Officer immediately or arrange for Emergency Room transport. In an extreme emergency, if the injury is severe and/or life threatening, staff shall call 9- 9-1-1.

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Use of Force

I. Introduction

This policy will set the standards for staff to follow to ensure the physical safety and security of the youth, staff, and visitors within the facility.

A. Definitions

1. Force

Force, in the context of a juvenile facility, is defined as the use of hands, other parts of the body, objects, instruments, chemical devices, or other physical methods by an objective, trained, and competent Institutions Peace Officer staff, faced with similar facts and circumstances, to subdue an attacker, overcome resistance, effect custody or gain compliance with a lawful order.

2. Reasonable force

The amount of force that an objective, trained, and competent Juvenile Corrections Officer (JCO), faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

3. Unnecessary force

The use of force that an objective, trained, and competent JCO, faced with similar facts and circumstances, would consider unnecessary to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

4. Excessive force

The use of more force than an objective, trained, and competent JCO, faced with similar facts and circumstances would use to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

5. Deadly force

Any use of force that is likely to result in death.

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6. Great bodily injury¹
An injury that creates a substantial risk of death.
7. Non-deadly force
A use of force option which is greater than verbal persuasion but less than force that is likely to result in death.

II. Purpose and Scope

- A. Use of force in non-emergencies should be used only after clear, specific and understandable verbal directives are not followed. The amount of force used shall be reasonable and appropriate to the situation.
- B. When dealing with aggressive youth, it is necessary that staff use only the level of physical intervention/restraint (defensive force control instruments) that is needed to immediately stop the aggressive behavior and ensure the safety of others. If physical intervention/restraint becomes necessary, staff should exert only the level of physical intervention/restraint on the aggressive youth which is needed to bring the situation immediately under control and ensure that no further injuries are suffered by staff or by other youth.
- C. The immediate safety and security of staff and confined youth are the primary concerns in determining if force is to be used.
 1. The level of defensive force deployed should only be that level necessary to control a resistive, aggressive, or violent youth and/or to overcome said resistance, while ensuring the safety and security of staff and the involved youth.
 2. The primary goal in any use of defensive force and/or defensive force instruments is to safely control a possibly dangerous situation where the safety of staff and confined youth are at risk.
 3. All defensive force strategies and/or instruments will always be based upon what is reasonable, available, and appropriate given the immediate circumstances.
 4. The use of force shall be avoided whenever possible. Force shall not be utilized for reasons of discipline, treatment, punishment or in retaliation for a violator's resistive,

¹ Sections 1712 and 1752, Welfare and Institutions Code. Reference: Section 1752, Welfare and Institutions Code; and Sections 147, 149, 830.5, 835, and 843, Penal Code.

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aggressive, or violent acts or any other acts. In determining whether to use force for non-compliance, staff shall determine whether this non-compliance puts the safety and security of the staff, youth, or institution at risk. When applying physical intervention/restraint, staff must not allow adrenaline, anger or emotion to cause a loss of control and judgment. It is important that staff develop and utilize professional strategies according to the continuum of force that stress and reinforce emotional control, judgment, and quality decision-making abilities under stress.

5. Corporal punishment is prohibited under any circumstances. Any use of corporal punishment or improper application of force shall result in disciplinary action.
 - a. All staff observing unnecessary or excessive use of force or corporal punishment are required to intervene and attempt to stop the inappropriate use of force or corporal punishment, and report it immediately to the shift supervisor on duty in the facility,
 - b. Staff shall document their observations in an Incident Report prior to leaving the facility at the end of their shift. The Shift Supervisor shall report the event up the chain of command.
 - c. The Director and Captain will be notified immediately of any improper application of force or any use of force which results in injury to a youth or staff member.

6. Training
 - a. Training in areas such as verbal judo, verbal assertiveness, and crisis counseling emphasize this department's stance on using alternatives to force whenever possible.
 - b. Training will be provided to staff that promote communication skills between staff and confined youth and that stresses the use of a trauma informed approach to supervision.

III. Restraint/Control Policy

- A. In restraint and control situations, staff may utilize only those control and restraining techniques and devices which are approved and/or provided by the Kings County Probation Department and in which the employee has successfully completed approved training.
- B. It is expected that staff will use good judgment, decision-making skills, and teamwork to control a situation.
- C. At every level of the defensive force continuum, staff may increase the degree of force within the level if needed to control the situation without going to another, higher level of

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force. For example, staff presence may be used by one staff and be increased by including more than one staff member.

- D. When a physical restraint is used, staff members must escalate or de-escalate the use of force as the youth's resistance or behavior changes. The amount of force used will not exceed the amount of force necessary to control the youth.
- E. KCJC staff may restrain or control a youth under the following circumstances:
1. For self-defense;
 2. For defense of another staff member or youth
 3. To prevent escape;
 4. To overcome resistance when a youth is physically aggressive;
 5. To effect an arrest;
 6. During transportation of a youth from one location to another;
 7. When there is a documentable, articulable threat to the safety or security of staff or the facility as a result of a youth's actions; or
 8. To prevent a youth from harming themselves.
- F. Levels of defensive force deployed should always be based upon what is reasonable and appropriate, given the individual circumstances. Youth's actions and behaviors dictate which levels of appropriate and reasonable defensive force may be deployed.
- G. Strategies for physical restraint and control or immobilization of a youth through the use of hands-on defensive force control instruments include, but are not limited to:
1. Staff presence (or multiple staff);
 2. Dialogue/counseling;
 3. Verbal commands;
 4. Control and search techniques;
 5. Oleoresin Capsicum (OC) pepper aerosol sprays;
 6. Mechanical restraints; and
 7. Unarmed defensive tactics.
- H. The above listing is not to be construed as meaning that force options are to be used only in the order listed. The force used is to be appropriate to the individual event. Mechanical restraints, OC, control and search techniques, unarmed defensive tactics, or other techniques requiring training, are to be utilized only after staff members have successfully completed departmental approved training in the specific topic.

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IV. Use of Force Options and Protocol

- A. Staff presence: This is the first option to the maintenance of a good institutional facility and the prevention of situations requiring physical intervention. It is the effect that staff's honesty, professionalism, integrity, pride and reputation for fairness has on a youth's behavior. These characteristics, to be effective, must be consistently maintained.
- B. Dialogue and counseling: This option is the staff's ability to gain control of the situation through the use of verbalized techniques. Dialogue properly used on a daily basis can become the only option necessary in most control situations. Dialogue, including counseling efforts, may also be the single most successful option available.
- C. Verbal commands: Staff is encouraged to communicate with youth in a manner that promotes positive interaction between staff and youth. When necessary, command presence shall be utilized if the situation warrants it. When using command presence, staff shall use clear, direct verbal commands to youth to affect the behavior change needed. When the situation de-escalates, staff is encouraged to communicate with the youth to ensure they understand why more forceful intervention was needed and how such problems can be avoided in the future.
- D. OC: The use of departmentally issued OC spray is permitted pursuant to state law². After having completed the required training on use of OC, KCJC staff may use OC under the following conditions:
 - 1. OC may be used within the scope of staff peace officer authority to control, restrain, or subdue imminent or actual violent behavior or if such behavior presents a clear danger.
 - 2. Before OC may be used, consideration must first be given to the gravity of the situation, the consequences that may reasonably be expected to occur if the behavior does not cease.
 - 3. OC will be used only after making reasonable efforts to verbally obtain voluntary compliance and after giving a clear warning that OC will be used if such voluntary compliance is not forthcoming.
 - a. The only exception to the above is when the behavior exhibited is of such nature that even momentary delay would result in further injury to a person.
 - 4. OC shall not be dispensed within a moving vehicle. During transportation of youth, OC will be used only in physically threatening situations or escapes/attempted escapes.

² Section 12403 of the California Penal Code

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5. OC may be used prior to the use of hands-on restraint or mechanical restraints in order to gain control of an aggressive youth. Staff may elect to use empty hands or mechanical restraints first if they can do so without risking injury to themselves or to the youth or if OC is not immediately available.
6. OC shall not be used for punishment, retaliation, or disciplinary purposes. Staff is to ensure that no greater amount of OC is used than is necessary to gain control of the situation and subdue the youth.
7. Staff should avoid deploying OC against female youth who have been identified as pregnant, or any youth with the following medical profiles:
 - a. Severe Asthma
 - b. Cystic Fibrosis
8. The facility Director, Captain and/or Chief Probation Officer shall designate those staff members authorized to possess and use OC within the scope of their employment at the KCJC. The staff member shall:
 - a. Have completed the approved 832 PC and chemical agents course that includes OC spray training;
 - b. Be on duty and authorized through the chain of command to have possession of OC; and
 - c. Have read and signed for the Kings County Probation Department Policy on OC.
9. Specifically, the following positions are authorized to possess and utilize OC while on duty after meeting the requirements of section 8 (above):
 - a. Deputy Chief Probation Officer, Director
 - b. Deputy Probation Officers
 - c. Juvenile Corrections Officers

Extra help staff may be considered for authorization to carry OC following the completion of mandated training, during the course of their assigned work hours.

10. Canisters of OC shall be controlled and accounted for as follows:
 - a. The facility Captain or designee will issue a new canister to approved staff. Empty canisters will be collected by the Captain and disposed of properly.

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- b. Canisters must be secured in the designated storage location when not in use.
 - c. Under no circumstances is staff to remove canisters from the institution unless they are in pursuit of an escapee, or participating in transportation or ground searches.
 - d. Each staff member receiving a canister is responsible for determining that it is more than half full and keeping the OC activated by shaking the canister at the beginning of each shift. While on shift, OC canisters must be secured on the Officer's duty belt when not actively in use.
 - e. Stored canisters are not to be in an area of extreme heat.
11. For optimum usage, OC should not be activated at a target distance of less than 6-10 feet. An effort should be made to hit the facial area with the spray.
12. Aftercare/Decontamination procedures:
- a. In all cases where OC is deployed, once the youth has been controlled and restrained, the youth must be immediately removed to a safe area where decontamination can take place.
 - b. The decontamination process for OC involves fresh air and water. The youth should be provided with a clean towel. Water should be sprayed into the face of the youth while the eyes are closed. The youth should not wipe his/her face but may blot dry. This process should be repeated as needed.
 - c. Youth should be advised not to decontaminate by washing with warm water and soap. Warm water will open skin pores and increase discomfort. Using soap or any oil or cream-based products will also increase discomfort. Advise the youth to decontaminate first by using cool water alone. After decontamination, use warm water only. Warm water and soap may be used the following day or later the same evening.
 - d. All youth sprayed with OC must be referred to medical personnel. If no medical staff is available on site, NaphCare nursing staff shall be contacted at the Kings County Jail.
 - e. Staff must observe all youth who have been sprayed with OC until medically cleared.
 - f. Any staff contaminated with OC should follow the same basic decontamination procedures.
 - g. The same procedures should be followed by any agency bringing in any youth who has been sprayed with OC. All staff should be alerted to any youth who have been sprayed with OC; the prospective youth should have been medically cleared, with this

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clearance obtained by the arresting agency prior to being accepted by institution staff for booking.

E. Documentation

1. The use of physical force and/or OC shall be reported in writing on an Incident Report. The individual applying the force or restraint shall be responsible for completing the incident report before the end of his/her shift during which the use occurred or before leaving the premises. The Incident Report will be submitted to the Shift Supervisor for review. Other officers on duty shall write an Incident Report as to their observation or participation in the incident. Only the officer deploying force, restraint or OC shall indicate such in the detail-type portion of their Incident Report.
 - a. The Shift Supervisor will approve the report(s) before the end of his/her shift during which the use occurred or before leaving the premises. The Shift Supervisor will submit the Incident Report to the Director and Captain within the same time limits.
 - b. The Shift Supervisor will also complete the Use of Force form³ and attach it to the Incident Reports. This form will be reviewed by the Captain and the Director by the next working day.

These reports shall depict:

- i. A clear and factual justification for the use of force/OC or restraints;
- ii. A description of how the force/OC was utilized and the results obtained; and
- iii. A complete description of the aftercare procedures and/or medical referral/treatment

F. Use of force/restraint referrals

1. In any instance when a youth is physically restrained and/or exposed to the use of OC, referrals will be made to the medical staff and Mental Health staff if necessary.
2. In any instance when a youth is injured through the use of empty hands or mechanical restraint, a referral will be made to the medical staff.
3. If as a result of any restraint, the youth appears to have significant injuries that cannot wait until he/she is seen by clinical staff, the Shift Supervisor will contact the on-call

³ See Attachment 4119 - A

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Deputy Probation Officer immediately or arrange for Emergency Room transport. In an extreme emergency, if the injury is severe and/or life threatening, staff shall call 9-9-1-1.

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Use of Force

I. Introduction

This policy will set the standards for staff to follow to ensure the physical safety and security of the youth, staff, and visitors within the facility.

A. Definitions

1. Force

Force, in the context of a juvenile facility, is defined as the use of hands, other parts of the body, objects, instruments, chemical devices, or other physical methods by an objective, trained, and competent Institutions Peace Officer staff, faced with similar facts and circumstances, to subdue an attacker, overcome resistance, effect custody or gain compliance with a lawful order.

2. Reasonable force

The amount of force that an objective, trained, and competent Juvenile Corrections Officer (JCO), faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

3. Unnecessary force

The use of force that an objective, trained, and competent JCO, faced with similar facts and circumstances, would consider unnecessary to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

4. Excessive force

The use of more force than an objective, trained, and competent JCO, faced with similar facts and circumstances would use to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

5. Deadly force

Any use of force that is likely to result in death.

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6. Great bodily injury¹
An injury that creates a substantial risk of death.
7. Non-deadly force
A use of force option which is greater than verbal persuasion but less than force that is likely to result in death.

II. Purpose and Scope

- A. Use of force in non-emergencies should be used only after clear, specific and understandable verbal directives are not followed. The amount of force used shall be reasonable and appropriate to the situation.
- B. When dealing with aggressive youth, it is necessary that staff use only the level of physical intervention/restraint (defensive force control instruments) that is needed to immediately stop the aggressive behavior and ensure the safety of others. If physical intervention/restraint becomes necessary, staff should exert only the level of physical intervention/restraint on the aggressive youth which is needed to bring the situation immediately under control and ensure that no further injuries are suffered by staff or by other youth.
- C. The immediate safety and security of staff and confined youth are the primary concerns in determining if force is to be used.
 1. The level of defensive force deployed should only be that level necessary to control a resistive, aggressive, or violent youth and/or to overcome said resistance, while ensuring the safety and security of staff and the involved youth.
 2. The primary goal in any use of defensive force and/or defensive force instruments is to safely control a possibly dangerous situation where the safety of staff and confined youth are at risk.
 3. All defensive force strategies and/or instruments will always be based upon what is reasonable, available, and appropriate given the immediate circumstances.
 4. The use of force shall be avoided whenever possible. Force shall not be utilized for reasons of discipline, treatment, punishment or in retaliation for a violator's resistive,

¹ Sections 1712 and 1752, Welfare and Institutions Code. Reference: Section 1752, Welfare and Institutions Code; and Sections 147, 149, 830.5, 835, and 843, Penal Code.

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aggressive, or violent acts or any other acts. In determining whether to use force for non-compliance, staff shall determine whether this non-compliance puts the safety and security of the staff, youth, or institution at risk. When applying physical intervention/restraint, staff must not allow adrenaline, anger or emotion to cause a loss of control and judgment. It is important that staff develop and utilize professional strategies according to the continuum of force that stress and reinforce emotional control, judgment, and quality decision-making abilities under stress.

5. Corporal punishment is prohibited under any circumstances. Any use of corporal punishment or improper application of force shall result in disciplinary action.
 - a. All staff observing unnecessary or excessive use of force or corporal punishment are required to intervene and attempt to stop the inappropriate use of force or corporal punishment, and report it immediately to the shift supervisor on duty in the facility,
 - b. Staff shall document their observations in an Incident Report prior to leaving the facility at the end of their shift. The Shift Supervisor shall report the event up the chain of command.
 - c. The Director and Juvenile Corrections Manager will be notified immediately of any improper application of force or any use of force which results in injury to a youth or staff member.

6. Training
 - a. Training in areas such as verbal judo, verbal assertiveness, and crisis counseling emphasize this department's stance on using alternatives to force whenever possible.
 - b. Training will be provided to staff that promote communication skills between staff and confined youth and that stresses the use of a trauma informed approach to supervision.

III. Restraint/Control Policy

- A. In restraint and control situations, staff may utilize only those control and restraining techniques and devices which are approved and/or provided by the Kings County Probation Department and in which the employee has successfully completed approved training.
- B. It is expected that staff will use good judgment, decision-making skills, and teamwork to control a situation.

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- C. At every level of the defensive force continuum, staff may increase the degree of force within the level if needed to control the situation without going to another, higher level of force. For example, staff presence may be used by one staff and be increased by including more than one staff member.
- D. When a physical restraint is used, staff members must escalate or de-escalate the use of force as the youth's resistance or behavior changes. The amount of force used will not exceed the amount of force necessary to control the youth.
- E. KCJC staff may restrain or control a youth under the following circumstances:
1. For self-defense;
 2. For defense of another staff member or youth
 3. To prevent escape;
 4. To overcome resistance when a youth is physically aggressive;
 5. To effect an arrest;
 6. During transportation of a youth from one location to another;
 7. When there is a documentable, articulable threat to the safety or security of staff or the facility as a result of a youth's actions; or
 8. To prevent a youth from harming themselves.
- F. Levels of defensive force deployed should always be based upon what is reasonable and appropriate, given the individual circumstances. Youth's actions and behaviors dictate which levels of appropriate and reasonable defensive force may be deployed.
- G. Strategies for physical restraint and control or immobilization of a youth through the use of hands-on defensive force control instruments include, but are not limited to:
1. Staff presence (or multiple staff);
 2. Dialogue/counseling;
 3. Verbal commands;
 4. Control and search techniques;
 5. Oleoresin Capsicum (OC) pepper aerosol sprays;
 6. Mechanical restraints; and
 7. Unarmed defensive tactics.
- H. The above listing is not to be construed as meaning that force options are to be used only in the order listed. The force used is to be appropriate to the individual event. Mechanical restraints, OC, control and search techniques, unarmed defensive tactics, or other techniques requiring training, are to be utilized only after staff members have successfully completed departmental approved training in the specific topic.

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IV. Use of Force Options and Protocol

- A. Staff presence: This is the first option to the maintenance of a good institutional facility and the prevention of situations requiring physical intervention. It is the effect that staff's honesty, professionalism, integrity, pride and reputation for fairness has on a youth's behavior. These characteristics, to be effective, must be consistently maintained.
- B. Dialogue and counseling: This option is the staff's ability to gain control of the situation through the use of verbalized techniques. Dialogue properly used on a daily basis can become the only option necessary in most control situations. Dialogue, including counseling efforts, may also be the single most successful option available.
- C. Verbal commands: Staff is encouraged to communicate with youth in a manner that promotes positive interaction between staff and youth. When necessary, command presence shall be utilized if the situation warrants it. When using command presence, staff shall use clear, direct verbal commands to youth to affect the behavior change needed. When the situation de-escalates, staff is encouraged to communicate with the youth to ensure they understand why more forceful intervention was needed and how such problems can be avoided in the future.
- D. OC: The use of departmentally issued OC spray is permitted pursuant to state law². After having completed the required training on use of OC, KCJC staff may use OC under the following conditions:
 - 1. OC may be used within the scope of staff peace officer authority to control, restrain, or subdue imminent or actual violent behavior or if such behavior presents a clear danger.
 - 2. Before OC may be used, consideration must first be given to the gravity of the situation, the consequences that may reasonably be expected to occur if the behavior does not cease.
 - 3. OC will be used only after making reasonable efforts to verbally obtain voluntary compliance and after giving a clear warning that OC will be used if such voluntary compliance is not forthcoming.
 - a. The only exception to the above is when the behavior exhibited is of such nature that even momentary delay would result in further injury to a person.

² Section 12403 of the California Penal Code

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4. OC shall not be dispensed within a moving vehicle. During transportation of youth, OC will be used only in physically threatening situations or escapes/attempted escapes.
5. OC may be used prior to the use of hands-on restraint or mechanical restraints in order to gain control of an aggressive youth. Staff may elect to use empty hands or mechanical restraints first if they can do so without risking injury to themselves or to the youth or if OC is not immediately available.
6. OC shall not be used for punishment, retaliation, or disciplinary purposes. Staff is to ensure that no greater amount of OC is used than is necessary to gain control of the situation and subdue the youth.
7. Staff should avoid deploying OC against female youth who have been identified as pregnant, or any youth with the following medical profiles:
 - a. Severe Asthma
 - b. Cystic Fibrosis
8. The facility Director, Juvenile Corrections Manager and/or Chief Probation Officer shall designate those staff members authorized to possess and use OC within the scope of their employment at the KCJC. The staff member shall:
 - a. Have completed the approved 832 PC and chemical agents course that includes OC spray training;
 - b. Be on duty and authorized through the chain of command to have possession of OC; and
 - c. Have read and signed for the Kings County Probation Department Policy on OC.
9. Specifically, the following positions are authorized to possess and utilize OC while on duty after meeting the requirements of section 8 (above):
 - a. Deputy Chief Probation Officer, Director
 - b. Deputy Probation Officers
 - c. Juvenile Corrections Officers

Extra help staff may be considered for authorization to carry OC following the completion of mandated training, during the course of their assigned work hours.

10. Canisters of OC shall be controlled and accounted for as follows:

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- a. The facility Juvenile Corrections Manager or designee will issue a new canister to approved staff. Empty canisters will be collected by the Juvenile Corrections Manager and disposed of properly.
 - b. Canisters must be secured in the designated storage location when not in use.
 - c. Under no circumstances is staff to remove canisters from the institution unless they are in pursuit of an escapee, or participating in transportation or ground searches.
 - d. Each staff member receiving a canister is responsible for determining that it is more than half full and keeping the OC activated by shaking the canister at the beginning of each shift. While on shift, OC canisters must be secured on the Officer's duty belt when not actively in use.
 - e. Stored canisters are not to be in an area of extreme heat.
11. For optimum usage, OC should not be activated at a target distance of less than 6-10 feet. An effort should be made to hit the facial area with the spray.
12. Aftercare/Decontamination procedures:
- a. In all cases where OC is deployed, once the youth has been controlled and restrained, the youth must be immediately removed to a safe area where decontamination can take place.
 - b. The decontamination process for OC involves fresh air and water. The youth should be provided with a clean towel. Water should be sprayed into the face of the youth while the eyes are closed. The youth should not wipe his/her face but may blot dry. This process should be repeated as needed.
 - c. Youth should be advised not to decontaminate by washing with warm water and soap. Warm water will open skin pores and increase discomfort. Using soap or any oil or cream-based products will also increase discomfort. Advise the youth to decontaminate first by using cool water alone. After decontamination, use warm water only. Warm water and soap may be used the following day or later the same evening.
 - d. All youth sprayed with OC must be referred to medical personnel. If no medical staff is available on site, NaphCare nursing staff shall be contacted at the Kings County Jail.
 - e. Staff must observe all youth who have been sprayed with OC until medically cleared.
 - f. Any staff contaminated with OC should follow the same basic decontamination procedures.

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- g. The same procedures should be followed by any agency bringing in any youth who has been sprayed with OC. All staff should be alerted to any youth who have been sprayed with OC; the prospective youth should have been medically cleared, with this clearance obtained by the arresting agency prior to being accepted by institution staff for booking.

E. Documentation

1. The use of physical force and/or OC shall be reported in writing on an Incident Report. The individual applying the force or restraint shall be responsible for completing the incident report before the end of his/her shift during which the use occurred or before leaving the premises. The Incident Report will be submitted to the Shift Supervisor for review. Other officers on duty shall write an Incident Report as to their observation or participation in the incident. Only the officer deploying force, restraint or OC shall indicate such in the detail-type portion of their Incident Report.
 - a. The Shift Supervisor will approve the report(s) before the end of his/her shift during which the use occurred or before leaving the premises. The Shift Supervisor will submit the Incident Report to the Director and Juvenile Corrections Manager within the same time limits.
 - b. The Shift Supervisor will also complete the Use of Force form³ and attach it to the Incident Reports. This form will be reviewed by the Juvenile Corrections Manager and the Director by the next working day.

These reports shall depict:

- i. A clear and factual justification for the use of force/OC or restraints;
- ii. A description of how the force/OC was utilized and the results obtained; and
- iii. A complete description of the aftercare procedures and/or medical referral/treatment

F. Use of force/restraint referrals

1. In any instance when a youth is physically restrained and/or exposed to the use of OC, referrals will be made to the medical staff and Mental Health staff if necessary.

³ See Attachment 4119 - A

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2. In any instance when a youth is injured through the use of empty hands or mechanical restraint, a referral will be made to the medical staff.
3. If as a result of any restraint, the youth appears to have significant injuries that cannot wait until he/she is seen by clinical staff, the Shift Supervisor will contact the on-call Deputy Probation Officer immediately or arrange for Emergency Room transport. In an extreme emergency, if the injury is severe and/or life threatening, staff shall call 9-9-1-1.



KINGS COUNTY JUVENILE CENTER

OFFICE LOCATION:
1450 FORUM DRIVE
HANFORD, CA 93230


 (559) 852-2970
 (559) 585-0488

KELLY M. ZUNIGA
Chief Probation Officer

LEONARD A. BAKKER II
Deputy Chief - Director

CARLA D. CORBETT
Juvenile Corrections Manager

To: All Juvenile Corrections Officer Staff (JCO I / II / III / IV)

From:  Leonard A. Bakker II
Deputy Chief – Director Kings Juvenile Center

Date: April 20, 2018

Subject: Use of OC – MK4 vs. MK9

Effectively immediately, the MK9 OC Pepper Spray shall only be used when there are three or more youth involved in a physical altercation where a youth and/or staff are in imminent danger of being injured and the youth fail to follow the directives of the Correctional Staff. The MK9 has a cone/fan spray which spreads rapidly in order to come in contact with as many youth as possible and is designed for crowd management. This type of spray pattern makes direct contact with multiple youth; as well as, potentially contaminating staff and the surrounding area.

When a single youth becomes combative or is in imminent danger of hurting themselves, other youth or staff; or two youth are engaged in a physical altercation which may result in injuries to themselves, other youth or staff, and they fail to follow the directives of the Correctional Staff, the MK4 shall be used. The MK4 has a stream spray which limits contact with others; and therefore, is less likely to contaminate staff or the surrounding area.

Overall, the MK9 OC Pepper Spray shall be used for crowd management (more than three youths being involved) and the MK4 OC Pepper Spray shall be used for single or two youth altercations.

If there are any questions or concerns, please feel free to come discuss with me. Thank you in advance for your cooperation.

COUNTY OF KINGS
Office of the County Counsel
KINGS COUNTY GOVERNMENT CENTER
1400 W. LACEY BLVD., LAW BLDG. NO. 4
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ANNUREET K. GREWAL

May 30, 2018

Sent via email only

Ian Kysel, Staff Attorney
ACLU of Southern California
Orange County Office
1851 E. First Street, Suite 450
Santa Ana, CA 92705
ikysel@ACLUsoCal.org

Re: County of Kings' ("County") further response to your May 9, 2018 request for records under the California Public Records Act ("the Act").

Dear Mr. Kysel,

This letter serves as the County's further response to your request for records under the Act as sent to the Kings County Probation Department ("Probation") on the date set forth above. In response to the remaining requests, the County answers as follows:

- a) Records showing number and volume of all containers or units of chemical agents currently maintained or stored for use. The County will not produce its records in response to this request as this information is exempt from disclosure as part of Probation's security files for the operation of the Kings County Juvenile Center. (Gov. Code § 6254, subd. (f).)
- b) Records showing number and volume of all containers or units of chemical agents purchased per month, quarter, and year (and the total cost for such purchases). The County will produce its records to the extent they exist. Please note, the only records that are responsive to this request are the purchase orders for OC spray. These purchase orders are for the purchase of OC spray for the County as a whole, not merely Probation.
- c) Records showing number and volume of all containers or units of chemical agents destroyed or discarded each month, quarter, or year. The County will not produce its records in response to this request as this information is exempt from disclosure as part of Probation's security files for the operation of the Kings County Juvenile Center. (Gov. Code § 6254, subd. (f).)

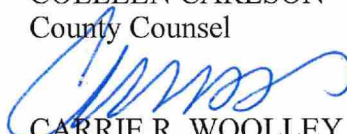
- d) Copies of any and all studies, inspection or accreditation reports, audits, or analyses relating to the facilities conducted internally or by outside agencies or organizations that mention chemical agents. The County will produce its records to the extent they exist.

As mentioned in its prior correspondence, the County will produce its responsive documents electronically as requested. Due to the size limitations in our email system, this may require multiple emails. If you would prefer to use a document sharing service instead, please let me know and I can upload the documents to your preferred platform for your retrieval. I will hold off on producing the above records until I hear from you on how you would prefer to handle production.

If you have any questions or concerns, please feel free to contact me at the address above, via telephone at 559.852.2454, or by email at Carrie.Woolley@co.kings.ca.us. Thank you.

Sincerely,

COLLEEN CARLSON
County Counsel



CARRIE R. WOOLLEY
Deputy County Counsel

PL: 184333

O.C. Pepper Training

Kings County Probation Department

Instructors:

Division Manager Marc Cerda

DPO II George Yang

Course Objectives

■ Overview-

- This is a 4 hour course designed to provide knowledge in the area of use OC pepper, as a chemical agent.
- Know the laws pertaining to Chemical Agents
- Demonstrate the ability to work in a Chemical Agent environment

Course Objectives Cont.

- This knowledge will include agent specification, dissemination, delivery systems, and decontamination methods.
- As part of the learning process, students will be exposed to the chemical agent.

O.C. Pepper

- Technical name-Oleoresin Capsicum
- Derived from Cayenne and Chili Peppers
- Odor- smells like peppers
- Dissemination Methods- Expulsion or Liquid

Chemical Agent History

- Ancient Chinese would use “stink pots” in which a solution of boiling oil and peppers would create a suffocating smoke that would incapacitate their enemies.
- The Japanese would later adopted a similar method in which they would grind peppers, wrap them in rice paper and throw them at their opponents’ face causing temporary blindness.

History Cont.

- OC was founded in 1923 but it was felt that it was not effective

O.C. in Law Enforcement

- In 1982 OC was first used by the F.B.I.
- In 1990 OC the F.B.I. approved its agents to carry OC
- In 1991 OC became available from multiple companies
- In 1994 forms of OC were available over the counter
- In 1996 OC was approved for use in California

Classification

- OC is classified as
 - An inflammatory agent
 - A Lachrymator-severe eye irritant
 - A Skin and Respiratory system irritant

OC classification color is Orange

Intended Effects

- Distract
- Disorient
- Disrupt activities
- Disperse
- Disable (temporary closing of the eyes)

Table of Contents

- Properties and Characteristics
- Dissemination Methods
- Delivery Methods
- Considerations
- Decontamination
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- Laws

Dissemination Methods

■ Chemical Agent Forms

– Solid

- Granular Agent mixed w/pyrotechnic mixture
- Burns upon ignition

Effects of OC

- Copious Tearing
- Involuntary closing of the eyes (slam shut)
- Swelling of the lining of the throat
 - Reduced size of airway
 - Temporary paralysis of the larynx
 - Uncontrollable
 - Choking
 - Gagging
 - Gasping for breath

Effects continued

- Burning and swelling of the mucous membranes
- Inflammation of the skin
 - Similar to a burn
 - Acute burning sensation in the affected area
 - Intensified by moisture

Recovery time

- Approximate time to full recovery is 45-60 minutes.
- Although burning sensations can continue to be felt in exposed areas for over an hour after decontamination.

First Aid for OC exposure

- Fresh Air
- Free flowing water (this will cause the skin to feel like its burning)
- Non oil based soap (baby shampoo) and water
- Do not use salves or creams for burning sensation

Care for the exposed subject

- Do not leave subject alone until effects of OC have dissipated
- Check the subjects' upper chest area for orange residue. This will still affect the subjects' breathing
- If subject has any difficulty breathing, get them medical attention. Normal breathing should return within a couple to minutes
- Avoid positional asphyxiation, allow subject to sit up after he has been properly restrained.

Dissemination Methods

- Expulsion

- Micro Pulverized agent (Fine Dust)
- Munitions referred to as
 - Blast dispersion
 - Instantaneous discharge
 - Bursting
 - Explosive

■ Liquid

- Agent suspended in liquid
- Liquid agent is used with several different dispensers
 - Hand held aerosols (MK-4)
 - Bulk dispensers (MK-9)
 - Ferret Round projectiles
 - 12 gauge
 - 37 mm
 - 40 mm

Forms of dissemination



Using Aerosol dispensers

- The OC in hand-held canisters tend to settle and separate if the container sits for a long period of time. An occasional shake will keep the solution mixed.
- A gas or compressed air is used to propel the liquid in the desired direction
- When using a hand held canister of OC, the target must be the FACE. OC must get into the eyes to be effective.
- Never expect immediate incapacitation. There are some people OC does not affect.

Effective Range

- Maximum effective range for Steam aerosol is 10-12 feet
- Maximum effective range for Spray is 6-10 feet
 - Never spray anyone closer than 3 feet, due to the possibility of self contamination and safety to officers and suspect.

Law Enforcement uses for Chemical Agents

- Self Defense
- Overcoming the resistance of a noncompliant individual
- Effecting an arrest
- Preventing an escape
- Crowd or riot control
- Controlling dangerous animals

Intended affects of the use of chemical agents

- Distract
- Disorient
- Disrupt activities
- Disperse
- Disable

Chemical Agents are not affective against:

- The Mentally ill
- Subjects who are under the influence
- Small percentage of subjects have experience no effects of OC.

OC doesn't always work!!



Chemical Agents should not be used on:

- The very young
- The elderly

Chemical Agents are accepted by the General Public because

- They are safe
- It is a less lethal option
- The effects are immediate and temporary
- The situation and amount used are reasonable

Laws

- PC 12401

- Tear Gas Defined

- All liquid, gaseous, or solid substances intended to produce temporary discomfort or permanent injury through being vaporized or otherwise dispersed in the air.

Tear Gas Weapon defined

■ PC 12402

- Any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause the release or emission of tear gases
- Any revolvers, pistols, fountain pen guns, billies, or other form of device, portable or fixed, intended for the projection or release of tear gas except those regularly manufactured and sold for use with firearm ammunition.

Lawful Possession by Peace Officer

■ PC 12403

- Nothing in this chapter shall prohibit any person who is a peace officer, as defined in Chapter 4.5 (commencing with section 830) of Title 3 of part 2, from purchasing, possessing, transporting, or using any tear gas or tear gas weapon if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas.

Possession of Tear Gas by County Custodial Officer

- PC 12403.9

- Custodial Officers of any county may carry tear gas weapons pursuant to Section 12403 only while on duty. These Custodial officers may carry tear gas weapons while off duty only in accordance with all other laws.

Possession of Tear Gas Weapon for Self-Defense

■ PC 12403.7

– Notwithstanding any other law, any person may purchase, possess, or use tear gas and tear gas weapons for the projection or release of tear gas if the tear gas and the tear gas weapons are used solely for self-defense purposes, subject to the following requirements:

- Persons must not have felonies involving assault
- Persons must not be addicted to any narcotic

- Persons may not sell or furnish to minors
- Persons may not possess tear gas if they are minors
- No person may possess more than 2.5 ounces net weight of aerosol spray
- Every tear gas container must be lawfully purchased, possessed and be properly labeled with "WARNING: The use of this substance or device for any other purpose other than self-defense is a crime under law. The contents are dangerous use with care."

- Any person who uses tear gas or tear as weapons except in self-defense is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by a fine not to exceed one thousand dollars (\$1000), or by both fine and imprisonment.

DISCUSSION:

The Kings County Probation Department recognizes and respects the value of all human life. Officers are involved in numerous encounters daily with a variety of people, and may be called upon to use reasonable force in carrying out their duties. Officers must understand the limitations of their authority with respect to overcoming resistance from those with whom they come in official contact. Vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

POLICY:

California Penal Code 835(A) – Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

Cont.

It is the policy of this department that officers shall use only that force which is reasonable, given the facts and circumstances perceived by the officer at the time of the event, to effectively and humanely bring an incident under control. The force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident.

- Officers may use force in the performance of their duties when they reasonably believe any of the following conditions exist:
 - In self-defense or in defense of another person
 - To prevent the commission of a public offense
 - To effect a lawful arrest, to prevent escape, or to overcome resistance
 - To protect a person from injuring him/herself
 - To prevent the destruction of evidence

- Officers may use deadly force in the performance of their duties when they reasonably believe that there exists an imminent threat of death or great bodily injury to themselves or to another person
- The objective in applying reasonable force is to control persons and incidents, thereby minimizing injury to all persons involved. Nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force, nor must they wait to be attacked before the application of reasonable force.

Options of Force

- The following examples for the application of various levels of force are provided to officers and do not imply an escalation scale. These examples are not exhaustive, nor are they intended to limit an officer's reasonable response to a perceived threat.
 - Presence
 - Verbal commands
 - Directional contact: simple touching or physical separation of persons absent compliance techniques
 - Empty handed force: compliance techniques or takedowns
 - Chemical Agents
 - Impact Weapon
 - Firearms

Reporting Requirements

- Any use of force which results in a visible or reported injury, or involves the use of firearms, or chemical agents shall be documented in an incident report or crime report.
- The complete report involving the use for force, whether an incident report, or crime report, shall include, but is not limited to, the following information:
 - Reason for the officer's intervention
 - Suspect's actions and statements prior to use of force or arrest
 - Type of resistance offered.

Cont.

- Type of force used to overcome resistance
- Injuries observed
- Whether or not medical treatment was requested and by whom
- Time of supervisory notification and to whom
- Witness statements
- Evidence collected if applicable including photos

Factors To Be Considered Prior To The Use Of Force

- Relative size and strength of the officer and suspect
- Skill level of suspect
- If and how suspect is armed
- Number of officers compared to suspects
- Amount of incapacitation to officer due to fatigue and injury
- Potential for injury to citizens, officers, and suspects
- Other exigent circumstances

Juvenile Center Policy and Procedure

■ Use of Force

- It is the primary function of every Group Supervisor to maintain control and supervision of all wards detained at the Juvenile Center. This control shall be maintained through verbal commands and visual observation with physical restraint and/or force utilized as a last resort after all verbal commands failed and failure to apply reasonable physical restraint and/or force will:

KJC policy use of force cont.

- Place the ward, other wards, or Group Supervisors in immediate physical danger
- Cause damage to the building, equipment, furnishings, and records
- Allow the minor to escape

Physical restraint and/or force applied shall be reasonable and only with enough force to control the ward and situation.

Group Supervisors found utilizing excessive force may be subject to disciplinary action and /or criminal charges.

Cont.

- The use of OC pepper is authorized to gain control of a minor who is so physically combative he/she poses an immediate threat to staff or to themselves and all other reasonable means of control have failed. The OC pepper may only be used as a defense weapon for control purposes when a minor is physically violent and no other reasonable means of control tactics will work.

Kings County Juvenile Center Policy and Procedure

■ Use of Force

- Force is the method in which a situation is controlled using physical contact and/or a chemical agent
- Only the minimum force necessary to control the situation can be used. The use of force is justified only when the circumstances indicate that it is needed. Force shall not be applied as a form of punishment or discipline.
- Only the Group Supervisors who have received STC training and certification for use of Chemical Tearing Agents shall be permitted to carry and use the Department approved tearing agent

KCJC policy cont.

- Staff should consider the following before deciding that the use of force is warranted:
 - Progressive steps to avoid force (counseling and verbal warnings are taken, but do not correct the problem.)
 - Minor does not comply with staffs' instructions and is offering resistance
 - Minors and/or staff are in danger
 - During an escape attempt
 - When damage to property is likely (the buildings, furnishings, equipment, record, etc.)

Department Policy

Chemical Tearing Agents

- KINGS COUNTY JUVENILE CENTER POLICY AND PROCEDURE
- **SUBJECT: USE OF FORCE**
- **TITLE: CHEMICAL TEARING AGENTS (O.C. PEPPER)**
- **REFERENCE: Department Policy**
- **POLICY:**
 - Group Supervisors of the Kings County Probation Department are authorized to carry and use Chemical Tearing Agents under the following conditions.
 - Oleoresin Capsicum is the only Chemical Tearing Agent authorized by the Kings County Probation Department.

- Only the Group Supervisors who have received STC Training and certification for use of Chemical Tearing Agents and have received supplement training on the use of Oleoresin Capsicum shall be permitted to carry and use the Department approved tearing agent.
- C. Chemical Tearing Agent(s) approved and issued by the Department shall only be carried and used by Group Supervisors while on duty and in the performance of their duties as authorized, whenever an overt aggressive action, threats or general circumstances threaten the Group Supervisor's safety and/or the safety of others and such aggressive action may cause bodily harm to the Group Supervisor or others.

- **PROCEDURE:**

- All Group Supervisors shall carry and maintain control/possession of Department approved and issued Chemical Tearing Agent(s). Chemical Tearing Agent are authorized to be used as directed by supervising staff whenever an overt aggressive action occurs or an officer's safety or the safety of others are imminent, and these aggressive action may cause bodily harm. The Group Supervisor's self defense against a physically combative individual/cadet who poses an immediate threat to his/her safety, safety of others, to include; staff, support staff, and minors committed to the Boot Camp program. All reasonable means of control must have been exhausted.

- Whenever practical combative or overtly aggressive, and/or assaultive individuals/minors shall first be warned to cease all assaulting behavior and that continued violent outbursts shall result in the use of the Chemical Tearing Agent.

- In the event the Chemical Tearing Agent is used, a report detailing the incident shall be prepared and submitted immediately or as soon as practical and possible, with a copy to the Chief Probation Officer as soon as possible following the incident. The Director/Commander shall be immediately notified of the incident or as soon as it is practical or possible. The lead Group Supervisor's shall ensure that the required Department of Justice O.C. Application Report form is also completed and forwarded to the Department of Justice.

- Immediately following the use of the Chemical Tearing Agent, the Group Supervisor shall provide first aid measures as soon as practical.
- Attacker should be told to calm down, relax and to breathe normally.
- Attacker should be moved to uncontaminated air.

- Flush contaminated areas with large quantities of cold water as soon as possible and practical.
- Attacker should be allowed to remove contact lenses and/or other contaminated clothing as soon as practical.
- Oils, lotions, creams, or salves should not be applied following exposure to tearing agents. These may trap the irritants and enhance and prolong effects of the agent.
- Minor(s) shall remain under close observation by staff.
- If symptoms persist 45 minutes after exposure, medical attention shall be obtained.

- If the person effected is in custody and subsequently relegated to another agency or custodial facility, advise them of the contamination and your efforts to decontaminate if any.
- If booked at jail, jail personnel should be informed that jail clothing will make the attacker more comfortable due to residual agents that may remain in clothing after exposure.

- If booked at the Kings Juvenile Center, the Juvenile Center staff shall be informed to immediately flush contaminated areas with large quantities of water as soon as practical. Juvenile Center staff shall also be instructed to issue Juvenile Center clothing as soon as practical.

- Oleoresin Capsicum is authorized to be used in a deterrence of attacking animals. If used against an attacking animal the following action should be attempted.
- Locate and notify the owner of use against the animal if possible. Advise the owner that effects are not permanent and can be diminished by flushing with water.

- Each Group Supervisor will be issued their own O.C. Pepper by the department. It is the Staffs responsibility to secure, maintain, and have their assigned O.C. Pepper while on duty. Failure to comply with regulations, failure to secure, and allowing a minor to have access to assigned O.C. Pepper can result in written reprimand or termination

Good Training



Exposure

- Students will now be exposed to the chemical agent to become familiar with the effects in the event of an accidental contamination.
- Students will also take necessary steps to request assistance and ensure weapon retention.