

STATE OF SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
POLICY AND PROCEDURES

Title:	Use of Chemical Force and Management of Chemical Agents	Policy No.:	H-3.11	Page(s):	1 of 10
Authority:	Inspector General				
Juvenile Justice Code:	n/a				
PbS Related Standard(s):	Order 2:O6				
April 07, 2016 Effetive Date	<u>SIGNED/ Sylvia Murray</u> Sylvia Murray Director				
DATES UPDATED:					

POLICY: The Department of Juvenile Justice (DJJ) may use Oleoresin Capsicum (OC) Spray to manage a juvenile’s aggressive behavior consistent with the procedural guidelines of this policy. OC Spray is the only chemical agent authorized for use at DJJ. Only Certified Class I Law Enforcement Officers (CCILEO) who have been trained in the use of OC Spray are authorized to use this chemical agent in self-defense or in defense of juveniles, staff, or others and then only as a last resort. CCILEOs will not use more than the minimum amount of chemical force necessary to protect themselves or others. Other persons are prohibited from possessing or using chemical agents of any kind for any purpose. OC Spray will only be stored in designated and approved secure locations. OC Spray will only be used to manage serious aggressive/assaultive juvenile behavior and will never be used to enforce an order or for the purpose of punishing a juvenile.

CCILEOs who use OC Spray and all DJJ staff who witness its use will prepare written reports detailing its usage and the circumstances giving rise to any incident in which chemical force was used. Managerial staff in the Office of Inspector General will review the circumstances of each use of chemical force for compliance with Department policy and South Carolina Department of Public Safety Criminal Justice training. The Associate Deputy Director of the Office of Legal and Policy Coordination will review and sign off on the appropriate or inappropriate usage of OC Spray after each usage consistent with the standards set forth above. If usage is determined to be inappropriate, appropriate disciplinary action will be taken.

PROCEDURAL GUIDELINES:

A. Definitions

1. Chemical Use of Force: The use of Oleoresin Capsicum (OC) Spray in self-defense or in the defense of staff, juveniles, or others.
2. Certified Class I Law Enforcement Officers (CCILEOs): DJJ Police Officers and OIG Criminal Investigators who have been certified through the basic police officer’s training provided by the South Carolina Criminal Justice Academy.

3. Defense of Staff, Juveniles, or Others: The justifiable use of OC Spray to protect others from imminent, serious, physical harm from a physical attack/act of physical aggression by another.
4. Oleoresin Capsicum (OC) Spray: A heavy, oily, liquid extract derived from dry cayenne peppers, a naturally occurring agent. OC Spray is nontoxic and nonflammable. Capsicum is the active ingredient that provides its source of heat.
5. Physical Force: Any physical contact an employee applies to overcome a juvenile's passive and/or active resistance or to modify a juvenile's inappropriate and physically aggressive behavior.
6. Self-defense: The justifiable use of force to protect oneself from imminent, serious physical harm from a physical attack/act of physical aggression by another.

B. Use of OC Spray

1. The only authorized chemical agent approved for use at DJJ is OC Spray.
2. No person on DJJ property will have personal chemical agents in their possession or kept in any DJJ areas under any circumstances, other than CCILEOs in the performance of their job duties.
3. CCILEOs will be issued OC Spray and are authorized to use OC Spray only in justifiable instances of self-defense and/or the defense of others and then only as a last resort, after all other less intrusive authorized types of verbal interventions/directives and physical force have been tried and proven to be unsuccessful, or when time and circumstances do not allow for/warrant less intrusive types of verbal interventions/directives and physical force to be tried. Only the minimum amount of chemical force necessary to bring a situation under control will be used.
4. OC Spray will never be used as a means of enforcing a lawful order or for the purpose of punishing a juvenile.
5. When DJJ staff are unable to manage a juvenile's aggressive behavior and the potential use of OC Spray is indicated, the DJJ Police Unit will be contacted as soon as possible.
 - a. For facilities in the Columbia area, a Police Officer will respond to the scene and provide appropriate law enforcement intervention.

- b. For facilities outside of the Columbia area, the facility staff will contact local law enforcement with the jurisdiction at the facility where the incident is occurring and request that local law enforcement intervene. Subsequent to notifying local law enforcement, the facility staff will notify the DJJ Police Unit of the incident by contacting OIG Central Telecommunications Center followed by an ERMIS (per DJJ Policy I-3.2).
6. Unless time and circumstances do not warrant their use, verbal directives and intervention efforts will be used by the CCILEO prior to the use of physical force, in compliance with DJJ Policy H-3.12, Use of Physical Force. When verbal directives and/or physical intervention efforts have been tried by the CCILEO and proven unsuccessful, or when time and circumstances do not allow for their use, then and only then shall the CCILEO use OC Spray.
7. In all cases where OC Spray is used, the following warning will be given prior to the use of the OC Spray:
 - a. The CCILEO will verbally warn the juvenile that he is going to be sprayed with OC Spray if he/she continues to be physically aggressive with staff or other juveniles. This warning will:
 - 1) Be given in a clear, calm voice.
 - 2) Be repeated twice within a 5-second interval.
 - 3) Describe the specific behavior that, unless stopped, will result in the juvenile being sprayed (e.g., hitting, gouging, choking, kicking, or throwing objects towards others likely to cause imminent, serious physical injury).
 - b. If necessary to prevent further acts of physical aggression by another or greater physical harm or injury to the CCILEO or another individual, the CCILEO may use OC Spray without issuing the above-described warning.
8. CCILEOs will use the following procedures in applying OC Spray:
 - a. Cautiously walk toward the juvenile.
 - b. Attempt to approach the juvenile from the front.
 - c. Stop approximately three (3) feet, with a recommended distance of 4-6 feet from the juvenile, because of the risk of hydraulic needle effect.
 - d. Shake the canister, if time permits.

- e. Hold the canister in an upright position, pressing the actuator to release liquid in the juvenile's face.
 - f. Focus spray at the bridge of the nose and spray the eyes in a horizontal sweeping motion.
 - g. If the eyes cannot be sprayed, then spray the area above the eyes, eyebrows, and forehead.
 - h. Do not spray the juvenile from a distance of less than two (2) feet.
 - i. Use two (2) short bursts of spray.
 - j. Use additional short bursts of OC Spray, only if necessary.
 - k. Use only the amount of OC Spray necessary to cause the juvenile to cease his/her aggressive behavior.
9. Any time a CCILEO uses OC Spray, he/she will immediately inform the on-duty Police Supervisor and/or Chief of Police. Upon notification, the Supervisor and/or Chief of Police will immediately report to the scene to ensure that Department policy and proper procedures are followed in managing and reporting the incident.

C. Treatment/Action Following the Use of OC Spray

- 1. Immediately following the application of OC Spray, the CCILEO will perform or direct other staff to perform the following tasks, as appropriate:
 - a. Remove the juvenile from the contamination site and into a site with non-contaminated air.
 - b. Tell the juvenile that he/she will be all right, that he/she has been sprayed with OC Spray, and that the effects are temporary.
 - c. Instruct the juvenile to remain calm and breathe as normally as possible. Coughing and shortness of breath are common effects of OC Spray and are temporary.
 - d. Instruct the juvenile not to rub his/her eyes or any sprayed areas.
 - e. Give the juvenile a paper towel and instruct him/her to pat any excess liquid away from his/her face.

- f. Instruct the juvenile to remove contact lenses if he/she is wearing contact lenses.
 - g. Allow the juvenile to flush his/her face with cool water to provide temporary relief from the OC Spray.
 - h. Allow the juvenile to repeat face washing several times when the juvenile indicates the need to do so.
 - i. Inform the juvenile that he/she will be required to take a shower as soon as the medical assessment is completed and upon arrival to the Crisis Management Unit (CMU).
 - j. Instruct the juvenile to blow his/her nose when needed.
 - k. Inform the juvenile that recovery from OC Spray may take up to 30-45 minutes and that washing his/her face may provide a more rapid recovery.
 2. During the above activities the CCILEO and facility staff will closely monitor the juvenile for unusual reactions (e.g., difficulty breathing, hyperventilation, and loss of consciousness, worsening of symptoms).
 - a. If normal breathing cannot be restored or the juvenile loses consciousness, the CCILEO will immediately call 911 and request emergency assistance.
 - b. If the juvenile experiences any other unusual reaction, the CCILEO or facility staff will consult with Health Services or other designated health care provider to determine appropriate action.
 3. The CCILEO and facility staff will next transport the juvenile to the Willow Lane Infirmary or other designated medical facility for assessment and treatment. Health Services Staff will assess the juvenile every 15 minutes for a minimum of 45 minutes from the last application of OC Spray.
 - a. If the juvenile refuses medical assessment and/or treatment, the refusal shall be noted and documented by the medical staff. After the medical assessment has occurred and treatment received or after the refusal has been documented, the CCILEO and facility staff will transport the juvenile to the Crisis Management Unit (CMU). Health Services staff will conduct follow-up inquiries as deemed medically necessary. CMU staff will continue to monitor the juvenile for unusual reactions and offer the juvenile the continued opportunity to obtain further medical assessment and/or treatment.

- b. Upon completion of the juvenile's medical assessment, the CCILEO will obtain two (2) copies of the completed Sick Call Record (Form C-1.6A pink copy) or provider's medical assessment document and other documentation relating to the juvenile's medical assessment and treatment.
 - 1) The CCILEO will deliver one (1) copy of the Sick Call Record/documentation relating to the juvenile's medical assessment and treatment to CMU.
 - 2) The CCILEO will attach the second copy of the Sick Call Record/medical assessment document to document the medical assessment and treatment provided to the juvenile on the Report on the Use of Chemical Force (Form H-3.11A). The Sick Call Record will be submitted with all other reports (ERMIS).
4. Upon the juvenile's arrival at CMU from the Willow Lane Infirmary or other designated medical provider, CMU staff will direct the juvenile to shower. No soap, shampoo, solvents or creams will be used. The juvenile will shower for approximately 10 minutes, ensuring that the head, hair, and facial area are thoroughly rinsed. If the juvenile's refuses to shower, this refusal will be documented in the CMU logbook and reported.
5. CMU staff will observe the juvenile closely for 24 hours. At each 15-minute check, CMU staff will check the juvenile for skin irritation, breathing difficulties, and responsiveness. Any unusual reactions will be reported to the Health Services Unit or the designated medical care provider. If the juvenile experiences difficulty breathing or becomes unconscious, facility staff will contact 911.
6. If the juvenile requests further medical assistance, the juvenile will be offered assistance to complete a Sick Call Record form. CMU staff will consult with Health Services or other designated health care provider to determine the appropriate action to be taken.
7. The CCILEO will assist or direct DJJ staff to assist other persons affected by OC Spray in the same manner as the juvenile who was the subject of the OC Spray usage.
8. If OC Spray is used in a juvenile's sleeping area, facility staff will remove and replace all bed linens and mattresses before any juvenile is allowed to sleep in the area. Contaminated items in other areas shall be removed as well.

D. Reporting the Use of Chemical Agents

1. When OC Spray has been used on a juvenile, the following written reports will be prepared:
 - a. ERMIS Event Report (Form I-3.2A): The CCILEO and all employees involved in and/or witnessing the use of chemical force will prepare a statement detailing what they observed utilizing the Event Report. Employees will complete and submit this to their respective Shift Supervisor no later than the end of their respective shift/work day. The Shift Supervisor will forward all reports to the DJJ Chief of Police.
 - b. Report on the Use of Chemical Force (Form H-3.11A)
 - 1) The CCILEO that used chemical force will prepare a report on the Use of Chemical Force as soon as possible after the incident but no later than the end of their shift. The report, and Sick Call form/medical assessment, and Event Reports will be submitted to the Police Unit Shift Supervisor. The Police Shift Supervisor will submit the reports to the DJJ Chief of Police upon his/her arrival to the scene.
 - 2) The DJJ Chief of Police Supervisor will review the report and ensure that the report explains in detail the situation, facts and circumstances existing prior to, during, and after the incident. If not, the supervisor will follow through to have the report corrected or completed. The Report on the Use of Chemical Force will be typed and returned to the CCILEO involved in the incident for review and signature. Then the Police Supervisor/Chief of Police will sign and date the report, attach any event reports submitted by others to the DJJ Chief of Police and forward the report through the Inspector General to the Office of Legal and Policy Coordination for that Office's review within four (4) business days.
2. If an unauthorized person uses a chemical agent in any DJJ facility or on any juvenile served by DJJ, the Facility Shift Supervisor will complete the Report on the Use of Chemical Force and submit it to his/her Facility Manager to be immediately forwarded to the Inspector General.

E. Managerial Reviews

1. The DJJ Chief of Police, the Inspector General, and Associate Deputy Director for the Office of Legal and Policy Coordination will review and sign the Report on the Use of Chemical Force when a chemical agent is used. This will be

accomplished within five (5) workdays from the date the incident occurred. These managerial staff will review all reports to determine whether the use of the chemical agent was consistent with the guidelines set forth in this policy. If staff deviated from these guidelines and/or training, the Agency will take appropriate investigative, disciplinary, and managerial action. After review, staff will document all actions taken on the appropriate reports. When feasible, disciplinary action will be taken within 15 business days of receipt of the report.

2. DJJ's Chief of Police and Inspector General will also indicate on the report whether they believe from their review of the reports submitted and their understanding of the events that the use of gas was appropriate and consistent with policy or not.

F. Issue, Storage, and Maintenance of OC Spray

1. A canister of OC Spray will be issued and assigned to each authorized CCILEO to carry while performing DJJ assigned duties.
2. The DJJ Police Unit will store unassigned canisters of OC Spray in a secure area, inaccessible to juveniles and unauthorized staff. Only staff trained and certified in the use of OC Spray will have access to the keys where OC Spray canisters are secured.
3. The DJJ Chief of Police will maintain a current list of Certified Class I Law Enforcement Officers who are trained and therefore authorized to use OC Spray. A copy of this list will be maintained where OC Spray is stored. Prior to issuing OC Spray, the issuing employee will verify that the person requesting OC Spray is authorized.
4. CCILEOs will discharge OC Spray canisters only as provided in this policy and will report any inadvertent, unauthorized discharge of OC Spray using the ERMIS Event Report (Form I-3.2A). The report will include the weight of their canister.
5. The DJJ Chief of Police will ensure that monthly inspections of OC Spray canisters issued and assigned to CCILEOs are conducted, using the OC Spray Monthly Inspection Report (Form H-3.11B). This inspection will include:
 - a. Inventory of OC Spray canisters.
 - b. Identifying canisters beyond their expiration dates.
 - c. Documenting the weight in grams of assigned OC Spray canisters.

- d. Reviewing each CCILEO's reported use of OC Spray to determine that any decrease in weight of OC Spray canisters is properly accounted for.
 - e. Determining if OC Spray canisters are defective.
 - f. Documenting appropriate disciplinary or other action if inappropriate use of OC Spray is identified.
6. The DJJ Chief of Police will maintain monthly inspection reports for one (1) year.
 7. OC Spray displaying a past expiration date will be destroyed or disposed of by the Police Unit in the approved manner described by the manufacturer and approved by the South Carolina Law Enforcement Division (SLED).
 8. The DJJ Chief of Police and the Police Shift Supervisor will maintain a Material Safety Data Sheet (MSDS) for reference.
- G. Authorization and Certification of Employees In the Use of OC Spray
1. All CCILEOs will be trained in the use of OC Spray. Following training, CCILEOs will be tested as to their knowledge of this DJJ policy and proper procedures governing the use of OC spray. Only CCILEOs passing competency-based training and testing conducted or approved by the Criminal Justice Academy will be authorized to be issued and to use OC Spray.
 2. Each CCILEO will sign a statement that they have read this policy and that they are qualified per this policy to carry and administer OC Spray.
 3. The OIG Class I Law Enforcement Training Officer will ensure that each DJJ Class I Law Enforcement Officer completes a minimum 5-hour training conducted or approved by the South Carolina Department of Public Safety Criminal Justice Academy. The OIG Class I Law Enforcement Training Officer will annually review South Carolina Department of Public Safety Criminal Justice Guidelines and oversee that CCILEOs receive recertification training as required and in a timely manner.

RELATED FORMS AND ATTACHMENTS:

Form C-1.6A, Sick Call Record

Form H-3.11A, Report on the Use of Chemical Force

Form H-3.11B, OC Spray Monthly Inspection Report

Form I-3.2A, Event Report

REFERENCED POLICIES:

I-3.2, Reporting Events

H-3.12, Use of Physical Force

RELATED PERFORMANCE-BASED STANDARDS:

Order 2: Minimize the use of restrictive and coercive means of responding to disorder.

SCOPE:

This policy provides for the appropriate use of chemical agents by DJJ CCILEOs at all facilities, programs, and offices, including DJJ long-term facilities, the detention center, evaluation centers, crisis management unit, and DJJ operated schools.

LOCAL PROCEDURAL GUIDE: Not required.

TRAINING REQUIRED: The Inspector General will ensure that training on this policy is provided to all Certified Class I Law Enforcement Officers employed by DJJ prior to the issuance of OC Spray to any of its officers. All other employees are required to review this policy within 30 calendar days of its publication.