

EXECUTIVE OFFICE



BOARD OF SUPERVISORS

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EXECUTIVE OFFICE
BOARD OF SUPERVISORS

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January 31, 2023

TO: Supervisor Janice Hahn, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Kathryn Barger

FROM: Max Huntsman, Inspector General
Los Angeles County Office of Inspector General

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Chief Deputy, Inspector General on behalf of Inspector General Max Huntsman

Wendelyn Julien, Executive Director
Los Angeles County Probation Oversight Commission

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SUBJECT: SECOND REPORT BACK ON THE PHASING OUT OF OLEORESIN CAPSICUM (OC) SPRAY AT CENTRAL JUVENILE HALL (ITEM NO. 9, AGENDA OF DECEMBER 20, 2022)

On December 20, 2022, through a [motion](#) by Supervisors Solis and Horvath, the Board of Supervisors (Board) instructed the Probation Oversight Commission (POC) and the Office of the Inspector General (OIG) to report back every fourteen (14) business days on the Los Angeles County Probation Department's (Probation) implementation plans for and progress on phasing out OC Spray in housing units that incarcerate youth with developmental disabilities, girls and gender expansive (GGE) youth at Central Juvenile Hall (CJH). The POC and OIG submit this joint report.

POC and OIG met with Probation leadership on January 24, 2023, and January 30, 2023, communicated regularly with leadership via email, and conducted investigations and interviews with youth, Probation staff, and through the review of specific incidents to collect the information in this report.

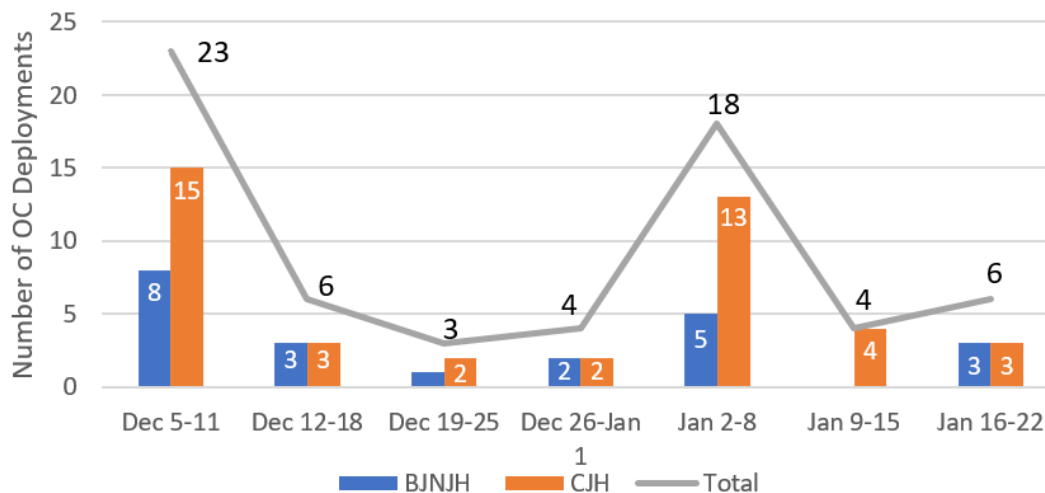
Directive 1: Direct the Probation Department to create an implementation plan, in collaboration with the Probation Oversight Commission (POC) and the Office of Inspector General (OIG), to phase out the use of OC spray, within 45 days, at the housing units that incarcerate youth with developmental disabilities and girls and gender expansive (GGE) youth at Central Juvenile Hall.

Since the last report of January 11, 2023, Probation’s progress toward compliance with the creation of a plan for full phase-out of OC spray in the juvenile halls and for phase out in the specified units at CJH by February 27, 2023, includes:

- Probation has identified 25 staff members who have volunteered to work in the units where spray will be eliminated.
- Probation has assigned approximately two staff per shift to the units where OC spray will be eliminated who are new recruits. These new recruits are recently trained in de-escalation and other strategies in the academy and are not issued OC spray.
- Probation met with staff to determine their training needs, identifying alternatives to OC spray as the major need including training on policies and best practices related to handcuffing, and use of force, among other topics.
- The 83 staff members that will be assigned to the five units at CJH housing girls, gender expansive youth, and youth identified as developmentally disabled have completed training as follows:
 - Completed both Block Weeks: 30 supervision staff
 - Completed Block Week 1 only: 11 supervision staff
 - Completed Block Week 2 only: 10 supervision staff
 - Attended Block Week 1, but missed one or more courses: 2 supervision staff
 - Attended Block Week 2, but missed one or more courses: 1 supervision staff
 - Attended both Block Weeks, but missed one or more courses: 9 supervision staff
 - Have not attended either Block Week: 9 supervision staff
 - Staff that do not have OC Spray: 11 supervision staff

Progress on decreasing the use of OC spray overall has varied widely week by week since the Board motion was passed. During the months of December 2022 and January 2023, there are weeks of few deployments punctuated by weeks with many deployments. Central Juvenile Hall is on pace to have as many, or more, deployments of OC in January as occurred in December. In contrast, during one week of the reporting period there were zero sprays at Barry J. Nidorf Juvenile Hall (BJNJH).

Weekly OC Deployments
December 5, 2022-January 22, 2023



Use of OC spray has dramatically reduced in Central Juvenile Halls' Units AB and XY, units that house youth with developmentally disabilities and those identified as "emotionally challenged," since the publication of the POC's OC summary in November 2022. For the period between January 1-22, 2023, there have been zero deployments reported for either unit. Unit CD, a unit where girls are housed, had four OC deployments from January 1-22.

The POC is currently working with Probation to address and reconcile a data discrepancy that was discovered in OC reporting. Specifically, Probation's weekly OC spray reports that are provided to the Board show fewer OC deployments per month than Probation's OC Phase Out Quarterly report does for the months of June, October, November, and December 2022.¹

Month	Weekly Reports	Quarterly Report
June	43	44
October	76	77
November	39	42
December	36	37

Directive 3: Direct the POC and the OIG to oversee the implementation and evaluation of the phase out of OC spray at CJH and report to the Board, in writing, every 14 working days, until the completion goal of February 27, 2023.

The status and re-implementation of the Regional Center training and any additional trainings. How training is conducted and deployed, including the effectiveness of the "train-the-trainer" model.

- At a meeting between the POC, the OIG, and Probation leadership on January 24, 2023, Probation reported that they met with the Los Angeles County Office of Education (LACOE) who has offered to provide training including an overview of skills needed to work with youth with disabilities and to prevent bullying of vulnerable youth. This training is currently being deployed to Probation officers through a self-guided webinar, however discussions are also underway for more direct training. Once implemented, Probation reports that its plans for training staff in collaboration with LACOE will likely result in more comprehensive and applicable training for working with youth with developmental and other disabilities than what was previously provided. Probation will update its progress on providing additional training by LACOE. Probation has not reported any plans regarding training by the Regional Center. The OIG and POC recommend that Probation collaborate with the Regional Center on the availability and efficacy of training by Regional Center staff.
- Probation plans to continue to provide training by internal experts via the train-the trainer method on when and how to make referrals to Regional Center when appropriate.
- In the [first report back to the Board](#) on January 11, 2023, the POC and the OIG provided an explanation of how the Academy Training and the Continuing Training, often referred to as Cohort Training or Block Training, are conducted and deployed.

¹ The POC only has data beginning in May 2022 for purposes of this comparison.

- Academy training has continued with a group of new staff graduating on January 26, 2023, and two more groups scheduled to graduate in the Spring of 2023.
- The 80-hour Block Training continues to be offered to existing staff. Training dates for February 2023 are:
 - Week One: February 6 – 10, 2023
 - Week Two: February 13-17, 2023

How training is conducted and deployed, including the effectiveness of the “train the trainer” model.

- There are no reported updates from Probation on how training is conducted and deployed since the time of the OIG and the POC’s first reports. The Probation Department has not made additional significant progress in providing needed training to juvenile hall staff. Probation will provide the OIG and the POC the training schedule.

The effectiveness of training in teams/units versus individuals.

As previously reported, Probation believes that unit training is more effective, and reported that it will seek staff volunteers to be assigned to units with the intention of training the unit staff together. Probation staff think that this approach is feasible for the units that are the subject of the motion due to the relatively small group of staff needed for the developmentally disabled units.

The impact of training on staff’s ability to de-escalate situations.

In addition to the formal training evaluation Probation collects following Cohort Training, Probation supervisors will elicit on-the-job feedback from recent trainees in the units where OC spray will be eliminated first in order to learn more about the effectiveness of training and other training needs.

Probation leadership intends to continue to provide employee town halls across both juvenile halls to listen to staff’s needs during the phase out process and to provide an opportunity for staff and units who successfully avoid using OC spray to share their techniques and experiences with others. Probation, the OIG, and the POC are continuing to discuss additional methodologies to evaluate the impact of training on staff’s ability to de-escalate.

The impact trained staff have on youth when de-escalation tactics are deployed.

- Probation, the OIG, and the POC are continuing to discuss examples of the impact Probation’s staff has had on youths with use of de-escalation tactics, including the review of video recordings of use of force incidents.

Interviews with youth in CJH regularly, subject to their attorney’s consent, to determine accuracy of the Probation Department’s reporting.

OIG and POC staff visited Central Juvenile Hall on January 23, 2023, interviewing ten youth with an attorney representative present from the Office of the Public Defender, Alternate Public Defender, or the Los Angeles County Bar Association (LACBA). A list of the interview questions is attached as Appendix A and the reports from those interviews are attached as Appendix B.

Among the themes that emerged from the interviews, some merit further investigation, including:

- Some youth report having asthma or other medical issues that complicate their reaction to OC spray. During a meeting with Probation leadership on January 30, 2023, the POC learned that Juvenile Court Health Services (JCHS) shares issues regarding youth's medical fragility with Probation staff, however manageable conditions such as asthma may not be included on those reports. The POC and the OIG will follow up with JCHS to determine how those issues are communicated with Probation and what the policy and practices are to ensure that youth with medical conditions that are exacerbated by OC spray are not subject to spray.
- A number of youths reported excessive use of spray during individual incidents including reports that spray was "pouring down [the youth's] face," that a youth was "repeatedly" sprayed on his back, that youth experienced staff spraying "all over, without an OC warning," and a report of a youth being sprayed while in handcuffs. There is no description of this in the OC spray reports reviewed by the OIG, calling into question whether all staff reporting is complete and accurate.
- The youths also reported the following:
 1. Most youths that were sprayed with OC spray were provided an "OC warning" by staff prior to the OC spray being deployed.
 2. The warnings were regarded as an effective method to stop the youths' activity.
 3. Decontamination with access to cold water is provided to youth that are involved with uses of OC spray.
 4. Most OC spray incidents are due to physical fights between youths and are sprayed in their faces.
 5. Most OC spray incidents occur in the housing units' dayrooms, in the afternoon and evenings.
 6. There are some staff members that decide to deploy OC spray sooner than other staff evenings.

POC and OIG staff will return to CJH with representatives from the defense bar on February 1, 2023, to conduct additional interviews of youth.

POC staff visited CJH on January 24, 2023, to gain an understanding of the scope of units temporarily and permanently housing youth who have been diagnosed as developmentally disabled. As indicated previously by Probation, Units AB and XY at CJH are the primary designated units meant to permanently house boys and girls with developmental disabilities, respectively. Staff reported that there were youth on other units who were also identified as having developmental disabilities, including in the Boys Enhanced Supervision unit and the Boys CARE unit. Staff also shared that in other units, including non-specialized units, it is not uncommon for youth with developmental disabilities to be temporarily housed there while awaiting a permanent housing transfer to units AB or XY.

POC staff will return to CJH on February 7, 2023, to revisit the issue of housing classifications and the housing of youth diagnosed with developmental disabilities.

Directive 4: Direct the OIG to track and collect data on staff who are engaging in multiple incidents of OC spray use, and in collaboration with the POC and the Probation Department, develop, review, and update policies on discipline and training regarding OC spray use.

- On January 4, 2023, the OIG contacted Probation to obtain data regarding all use of force and use of OC spray incidents that occurred from July 2022 to December 2022, as well as reports regarding multiple uses of OC spray by individual staff members during the same period. Included in the request were Physical Intervention Reports (PIR) from July 2022 to December 2022, to assist in identifying patterns of overuse by specific Probation Department staff. On January 18, 2023, the OIG sent Probation a reminder to provide the requested data. Probation indicated that it needed additional time to provide the information. During a January 24, 2023, meeting with Probation's executive leadership team, and the POC, the OIG was informed that Probation does not specifically track patterns of multiple use of OC spray by staff members. The OIG, along with the POC, discussed with Probation possible methods to identify staff that are involved in multiple uses of OC spray, and provide that information in a weekly report to the OIG and the POC for review. This will enable identification and monitoring of patterns of possible overuse of OC spray by staff members. The OIG will also review PIRs previously provided by Probation to determine if those reports will provide the requisite data to track multiple OC spray incidents by staff.

Although Probation is not currently tracking situations involving staff with multiple uses of OC spray, Probation's executive leadership team reported that the anticipated Early Intervention System (EIS) will assist in identifying such staff. The EIS uses algorithms to track and analyze uses of force, and calculates scores based on objective metrics, which then result in "flags" (alerts) in problematic areas. The EIS will track the frequency of the "flags" for a later enhanced review by Probation staff and will identify staff present during the incidents. The EIS system has not yet been implemented but is expected to launch this spring.

- Probation currently reviews PIRs to determine whether the use of OC spray was in accordance with its policy. These forms require a notation of a staff's use of OC spray, and the accuracy of the PIR is crucial in tracking the OC spray incidents. In reviewing PIRs for Probation's compliance with the California Department of Justice settlement agreement, the OIG determined that the reports were consistently incomplete and inaccurate. Furthermore, the reports were consistently filed late by Probation staff causing a delay in the review of the reports by supervisors. Although Probation created the FIRST team to ensure use of force review and accountability, based on the OIG's [*First Report on the Probation Department's Compliance with the Department of Justice Settlement Agreement on Juvenile Halls*](#), and [*Second Report on the Probation Department's Compliance with the Department of Justice Settlement Agreement on Juvenile Halls*](#), Probation has had zero percent compliance, in both reporting periods for the timely submission to and review of use of force incidents by its FIRST team. The OIG reiterates its recommendation that all staff, including supervisors, be refreshed on the policies and practices surrounding submitting timely and complete reports after use of OC spray and other uses of force incidents.

- Probation revised its use of force policies in 2022, which includes use of OC spray and decontamination. The OIG reviewed Probation's OC spray policies and in its [Second Report on the Probation Department's Compliance with the Department of Justice Settlement Agreement on Juvenile Halls](#), made recommendations regarding updating the policies for documentation of OC spray decontamination. These recommendations included:
 1. Revising Physical Intervention Report forms to ensure *section M* has sufficient space for documentation of decontamination of multiple youths.
 2. The Physical Intervention Report form(s) of staff member(s) that deployed the OC spray should be the first page(s) of the Physical Intervention Report Packet.
 3. Adding a signature line to *section M* of the Physical Intervention Report form for a supervisor to verify that the section has been reviewed and completed.
 4. OC spray training, including use of OC spray and decontamination requirements and how to properly complete *sections M* and *N* of the Physical Intervention Report, with documentation of participation in the training to ensure that all employees have been trained.
 5. Video recording each OC spray decontamination.
 6. Conducting training for all staff regarding the requirement of complete, accurate, and timely reports relating to all uses of force as required by Probation policies.

- The OIG attends and monitors Probation's Central Intake Team (CIT) meetings conducted by its Internal Affairs Bureau (IAB) which reviews allegations of staff misconduct for possible investigation. Included in these meetings is the review of alleged staff misconduct regarding the use of OC spray, and a determination of whether an IAB investigation is warranted to address the conduct. Based on attending these meetings, the OIG has determined that not all OC spray cases are reviewed by CIT, but rather only those incidents where it is believed by the juvenile facility that there is possible staff misconduct. Given the Board's directives to phase out the use of OC spray first in the specified units in CJH and ultimately in both its juvenile halls, the OIG recommends that *every* OC spray incident be reviewed by the CIT. The OIG will continue to discuss such implementation with Probation.

Directive 5: Direct the Probation Department to update the weekly OC Deployment Reports to include data as follows:

- A complete listing of units housing youth that includes a brief qualitative description of who is housed in the unit for both juvenile halls – ***Provided to the POC***
- Notation of involvement of youth with developmentally disabilities in an OC spray incident regardless of unit – ***Not Complete***
- Notation of involvement of gender expansive youth – ***Complete***
- Notation of involvement of any youth identified as CSEC – ***Not Complete***
- Notation of involvement of any youth with DCFS involvement – ***Not Complete***
- Unit assignment of youth and staff involved and actual location of the deployment (school, day room, etc.) – ***Partially Complete***
- Weekly average number of youth housed on a given unit – ***Complete***

- Shift in which the deployment occurred – *Complete*

Probation leadership informed the POC on January 27, 2023, that they will be able to provide all of the additional data elements in the weekly OC spray reports no later than the February 6, 2023, report, which will reflect incidents between January 30, 2023, and February 5, 2023. At this point, this data is being collected manually.

Status of OC Spray Phase Out Plan as Directed by the Board Motion

The Probation Department was directed by this Board motion to implement a plan to phase out the use of OC spray in the identified units at Central Juvenile Hall *within 45 business days* from the date of the motion. To date, we have not seen a draft of any such plan. To date, neither the OIG nor the POC have received a draft plan.

In 2019, Probation presented a plan² to phase out OC spray that included four preliminary phases to taper and then eliminate OC spray usage. Based on the information reported by Probation, even the completion of Phase 1 has not yet been achieved. At this juncture, the OIG and the POC recommend that within 60 days the Probation Department provide staff with sufficient training to move to Phase 3 of this plan,³ which is delineated in the report as follows:

Phase 3 – Secured Stage. After the Restricted Stage, (60-90 period when only two unit staff per shift are carrying OC spray), two OC spray canisters will be secured in a locked box in the unit and only accessible during extreme emergencies. Locked boxes will need to be procured and installed during the planning phase.⁴

The Probation report was published three-and-a-half years ago and we are no closer to eliminating the use of OC spray in the juvenile halls. Based on information provided to the OIG and the POC, the previous Chief of the Probation Department countermanded the Board's directive by ordering the Probation Department staff to disregard the phase out and to stop efforts to eliminate the use of OC spray. The current administration has made no effort to reinstitute the phase out despite knowing of the Board's previous and current directives and the 2019 Probation phase out plan.

In order to train staff and to sufficiently staff the juvenile halls, the OIG and the POC recommend transferring Probation field officers to training to complete the necessary training to assign them to juvenile halls.

The OIG and the POC further recommend that within the next 60 days the Probation Department finalize a plan to phase out the use of OC spray by July 30, 2023, in both juvenile halls. This deadline is 180 days from the date of this report. Given the original phase out plan in Probation's 2019 report, there is sufficient time to meet this deadline.

² [*Embracing the Future: Elimination of Chemical Agents in the Probation Department's Juvenile Facilities and Development of Youth-Centered Therapeutic Milieus and Staff Support Systems*](#), June 21, 2019.

³ OC spray use should already have been eliminated as to the units housing GGE and youth who are developmentally disabled based upon the phase out deadline of February 27, 2023)

⁴ Id at page 5.

The Honorable Board of Supervisors

January 31, 2023

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The POC and the OIG will continue to collaborate with the Probation Department to ensure OC spray is completely phased out as originally instructed in the Board's 2019 motion.

Please feel free to contact Inspector General Max Huntsman at mhuntsman@oig.lacounty.gov or Executive Director Wende Julien at wjulien@poc.lacounty.gov with any questions.

MH:WJ

Attachments

c: Fesia Davenport, Chief Executive Officer
Adolfo Gonzales, Chief Probation Officer
Celia Zavala, Executive Officer
Dawyn R. Harrison, Interim County Counsel
Justice Deputies, Board of Supervisors

Board Motion: Phase Out of Oleoresin Capsicum (OC) Spray at Central Juvenile Hall
**Central Juvenile Hall
Interview Protocol**

INTRO: Interviewer introduces him/herself to youth and explains purpose of the interview. Interviewer ensures youth's anonymity will be preserved (no names, identifying information to be used in reporting) and reviews confidentiality and its limits. Interviewer shares with the youth that this interview should only take about 10 minutes of their time and requests their volunteered participation.

Demographic Data and Questions

Age:

Housing Unit:

How long have you been at CJH?

Have you remained at CJH the entire time or have you moved between Halls?

During your stay [**here**] at Juvenile Hall, have you ever been pepper-sprayed?

- If **NO**, Ask: Have you ever been present when someone was sprayed?
- If **YES**, follow-up with these questions (and continue remaining questions outlined below but make modifications in the questions for those who were *present* but not the individual targeted to be sprayed)
 - Do you remember the date or how long ago you experienced this? (OC spray)
 - Can you share what you remember happened leading up to this event?
 - What happened after the spraying occurred? (e.g., did you visit the eye-wash area or visit the nurse)?
 - Did the DSO/staff try to break up the fighting or whatever was happening before they used spray?
 - Did the DSO tell you why they sprayed you? Who said what?
 - (If only present: Did you hear the DSO or any staff say why they were using spray? Who said what?)
 - Did you agree with what the DSO/staff said? If not, why not?
 - Were you the only one sprayed or were others present with you also sprayed?
 - Do you know who else was sprayed?
 - Do you think the others who were sprayed were sprayed accidentally or could you tell if they were sprayed on purpose? If on purpose, what makes you think it was on purpose?
 - Have you been sprayed before this last time or was this the first time?
 - *(If **YES** more times) How many times have you been sprayed? Why were you sprayed before? What happened?
 - *When you were sprayed before, was it the same person who sprayed you this time?
 - If **NO** – was the person who sprayed you the time before, present this time? Did this person say anything to you?

- *Have you seen this same DSO/staff member use the spray before on someone else? When was that? Where? On whom?
- **Is there anything relating to this topic (pepper-spray / OC spray) you would like to share?*

*Post spray decontamination details from section M of PIR.

END: Thank youth for their time; repeat your name and contact information to them. Convey openness should they want to reach out to you at a later time with further information or anything else related to this topic.

Central Juvenile Hall Interviews

January 23, 2023

Interviewer: Erica Reynoso, Ph.D., LCSW
Office of the Public Defender: Vera Koulian, JD

Interviewer: Daysi Alarcon, OIG
LACBA: Erik Rodstrom, JD

Youth	Housing Unit	Age	Length of Stay (during this detention)	Entire time at CJH or moved between Halls?	Has been pepper- sprayed?	Has been present when someone was sprayed?
1	AB	17	13 months	10 months CJH, 3 months BJNH	✓	✓
2	AB	16	3 months	Entire time	✓	✓
3	Boys' CARE	15	9 months	6 months BJNH, 3 months CJH		✓
4	Boys' CARE	18	6 months	Entire time	✓	✓
5	R/S	17	5 months	1 month BJNH, 4 months CJH	✓	✓
6	BESU	18	5 months	Entire time	✓	✓
7	BESU	17	2 months	1 week at RS		
8	Girl's CARE	13	4 months	Entire time	✓	✓
9	C	15	1 month	Entire time		
10	C	18	2 months	Entire time		✓

Themes / Patterns

- All youth who were sprayed indicated receiving access to cold water (wash station or shower) immediately following each incident, along with further decontamination protocols from nursing (i.e., icepacks). One of the youth mentioned using milk because the dairy helps.
- Most youth, except for two, who were sprayed received "OC warning" by staff before OC spray was deployed (one youth reported not having received "OC warning" during second OC spray)
- Most "OC warnings" occurred immediately prior to OC being deployed (few seconds to one minute prior)
- Youth reported "OC warnings" recognizable and regarded as an effective prevention tactic for some youth: "for some kids, when they hear OC warning, they stop fighting and don't end up getting sprayed."

- All youth who were not sprayed reported hearing the OC warning and altercations stopping therefore the spray did not occur
- All youth reported OC spray incidents occurred due to physical fights or altercations ensuing between youth and/or due to property being damaged (i.e., breaking window)
- Most OC spray deployments occurred in housing unit's dayrooms, some at school
- Most youth were sprayed on faces; one youth reporting being sprayed on his back, repeatedly
- Most youth agreed when OC was deployed by staff (in their own instance or while witnessed others sprayed), except for one youth who reported being unjustly sprayed by unit supervisor and another instance during which a staff member entered the dayroom and sprayed "all over, (multiple kids) without an OC warning."
- Heterogeneity noted in use of OC spray, by (different) staff and by unit but "there are staff who are quicker to use it than others."
- Most OC spray incidents occurred in the afternoon and in the evening
- Most youth reported that another person or staff was sprayed in addition to the person the spray was intended for.
- This sample of youth reported having been sprayed (or witnessing) in their current units and/or in [CJH] units W (intake), R/S, G/H, and J/O. While at BJNH, they were sprayed (or witnessed) in units J/K, T/V.
- Youth reported that only [Probation] staff were in their unit during OC spray deployments; there were no partner agency staff (i.e., LACOE, DMH, JCHS) nor CBO's present during these deployments.

Notes and Individual youth reports

- Three youth reported adverse reactions to pepper spray, beyond the "burning sensations" and "red face" – two youth reported having asthma (one requires albuterol inhaler) and one youth may have an allergic reaction, "my face gets swollen" and "my eyes were irritated for a week." Both youth explained reporting these symptoms to probation staff and to nursing.
- One OC spray incident led to a restraint by the unit supervisor – youth indicated being sprayed a second time while restrained, and in handcuffs.
- One youth commented: "Staff need to use the pepper spray to keep everyone safe" – "they also have families they have to go home to."
- One youth reported that "staff antagonize youth, put them down and talk [expletive]" which often leads to fights and OC spray deployment
- One youth questioned "if they take away pepper spray the youth won't stop, youth stop during the warning because they don't want to be sprayed."
- Youth reported different amounts of spray. One described as a squirt, another described as pouring down his face. Another stated it covered her glasses.
- One youth stated that communication was a better way to handle youth.