

# OIR Use of Force Review

*UOF Review 2-8-22 JH Unit G*



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## Summary of Facts

On February 8, 2022, at approximately 8:35 p.m., Deputy Juvenile Correctional Officer (DJCO) 1 observed Y1 enter the day area and begin to walk over to the staff desk to get some lotion for his hands.<sup>1</sup> Y1 abruptly changed directions and began to run towards Y2, who was seated at a picnic-style table. Y2 looked back and when he saw Y1 running towards him, stood up from his seat “to defend himself.” Y1 then jumped onto the bench affixed to the table and forced Y2 away from the table, grabbing around his neck area. Y1 then fell onto the ground. Y2, who was bent over Y1, then began punching downwards as Y1 began kicking upward towards Y2’s face.

According to their reports, DJCO 1 and DJCO 2 directed both youths to “get down on the floor,” but the youths ignored both DJCOs’ directives and continued to fight. DJCO 1 then “yelled out ‘OC Clear’ and deployed a one-second burst [of Oleoresin Capsicum (OC) spray] across both youths’ faces from about a 5-foot distance away in order to ensure the safety of the group and staff.”

The video shows that immediately after being sprayed, Y2 moved away from Y1, and laid face down on the ground and placed his hands behind his head. Y1 then got up from the ground and ran over and jumped on top of Y2 while he was in the prone position. Y1 then stood up and began punching Y2 as Y2 rose to his knees. Y2 then grabbed Y1 around the knees and pulled his legs out from under him, causing Y1 to fall backwards onto the ground. Y2 then leaned over the top of Y1, and the two youths began to engage in a struggle.

DJCO 1 attempted to pull Y1 to the ground and DJCO 2 attempted to pull Y2 to the ground but both youths continued to fight. DJCO 3 then emerged from behind the staff desk and deployed a one-second burst of OC towards Y2 from a very short distance<sup>2</sup> while DJCO 1 and DJCO 2 were attempting to separate the youths. Y2 then fell backwards onto his buttocks and, as DJCO 4 and DJCO 5 arrived, rolled over onto his stomach and placed his hands above his head.

DJCO 4 and DJCO 5 assisted DJCO 1 and DJCO 2 in restraining and securing Y1 and Y2. A Supervising Juvenile Correctional Officer (SJCO) arrived on scene and directed staff on where to send each youth for decontamination. Once the unit was secured, Y1 and Y2 were escorted to separate showers to decontaminate. Staff supervised the decontamination process for both youths. Both youths were provided with new clothing, and the soiled clothing was placed in a water-soluble bag and labeled.

## Lawful Requirements for Use of OC

In determining whether a particular use of force was appropriate, courts analyze the use of force “under the Fourth Amendment’s prohibition against unreasonable seizures using the framework articulated in *Graham v. Connor*.”<sup>3</sup> The reasonableness of a seizure turns on whether the use of force was “objectively

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<sup>1</sup> All information regarding the incident is taken from DJCO reports and video provided to the OIR. All information regarding statements made or commands given were taken from reports because the video contains no audio.

<sup>2</sup> In her Special Incident Report (“SIR”), DJCO 3 wrote that she deployed the OC spray at Y2 from a distance of approximately five feet. The video footage of the incident makes clear that there was far less than five feet of distance between DJCO 3’s OC canister and Y2. In the video, DJCO 2 is seen walking up close to Y2, who is on the floor and whom DJCO 2 is attempting to restrain, bending down, extending her arm, and deploying the OC spray at a very close distance to Y2.

<sup>3</sup> *Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156.

reasonable in light of the facts and circumstances confronting [the user of force], without regard to their underlying intent or motivation."<sup>4</sup>

Reasonableness is determined by balancing "the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake."<sup>5</sup>

There are three steps in conducting the balancing required by *Graham*. The first step is to assess the "the quantum of force used."<sup>6</sup> The second step is to measure "the governmental interests at stake by evaluating a range of factors."<sup>7</sup> Finally, the third step is to balance the quantum of force used on the individual against "the government's need for that intrusion to determine whether it was constitutionally reasonable."<sup>8</sup>

### Quantum of Force

Assessing the quantum of force used requires analyzing the nature and quality of the intrusion on the individual's Fourth Amendment interests, which, in turn, requires the fact finder to evaluate both the type of force inflicted, and the amount of force used.<sup>9</sup>

### Type of Force Used

In this incident, the force used was Oleoresin Capsicum (OC), commonly known as pepper spray. OC is an oily organic resin derived from the fruit of plants in the *Capsicum* genus, such as chili peppers.

The Ninth Circuit has clearly held that pepper spray is a form of "force capable of inflicting significant pain and causing serious injury."<sup>10</sup> "Pepper spray 'is *designed* to cause intense pain,' and inflicts 'a burning sensation that causes mucus to come out of the nose, an involuntary closing of the eyes, a gagging reflex, and temporary paralysis of the larynx,' as well as 'disorientation, anxiety, and panic.'"<sup>11</sup> As such, pepper spray is regarded as "intermediate force" that, "while less severe than deadly force, nonetheless present[s] a significant intrusion upon an individual's liberty interests."<sup>12</sup>

### Recommendation

Update PMI 3-1-056 to specifically state that OC spray is classified as an intermediate level of force.

### Amount of Force Used

The amount of "intermediate force" (OC) used in this case was minimal. There were two bursts of OC, one sprayed by DJCO 1 and one sprayed DJCO 3. The reports, and the video, confirm that both deployments of OC occurred while the youths were actively fighting. Each burst lasted one second.

Some courts have also held that the failure to act by not properly decontaminating a person exposed to OC can rise to the level of a constitutional violation.<sup>13</sup> Such is not the case here. Staff ensured that the

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<sup>4</sup> *Graham v. Connor* (1989) 490 U.S. 386, 397; *Blankenhorn v. City of Orange* (9th Cir. 2007) 485 F.3d 463, 477.

<sup>5</sup> *Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156.

<sup>6</sup> *Davis v. City of Las Vegas* (9th Cir. 2007) 478 F.3d 1048, 1054.

<sup>7</sup> *Davis v. City of Las Vegas* (9th Cir. 2007) 478 F.3d 1048, 1054.

<sup>8</sup> *Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156.

<sup>9</sup> *Miller v. Clark County* (9th Cir. 2003) 340 F.3d 959, 964.

<sup>10</sup> *Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156.

<sup>11</sup> *Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156.

<sup>12</sup> *Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156.

<sup>13</sup> *Wilson v. Bucato* (E.D.Cal. Dec. 7, 2023, No. 1:23-cv-00023-HBK (PC)) 2023 U.S.Dist.LEXIS 218539.

length of time that the youths felt effects of the OC was limited. As soon as Y1 and Y2 were secured, they were taken directly to the showers to begin the decontamination process. The reports and video footage reflect that less than four minutes elapsed from the first deployment of OC and the time that both youths began the decontamination process.

### Governmental Interest

Intermediate force is a “significant level of force that must be justified by the governmental interest involved.”<sup>14</sup> In evaluating the government’s interest in the use of force, courts look to: (1) the severity of the crime at issue, (2) whether the suspect posed an immediate threat to the safety of the officers or others, and (3) whether the suspect was actively resisting arrest or attempting to evade arrest by flight.<sup>15</sup>

### Severity of the Crime at Issue

The crimes at issue in this incident are violent crimes of assault and battery. Under California law, assault and battery are misdemeanor offenses.<sup>16</sup> However, battery involving the infliction of serious bodily injury and assault by means of force likely to produce great bodily injury are both felony offenses.<sup>17</sup> The felony battery charge focuses on the actual injury inflicted, while a felony assault charge focuses on the force used and not whether the force produced great bodily injury. “The crime of assault by means of force likely to produce great bodily injury is completed before any injury is inflicted.”<sup>18</sup> “It is enough that the force used is likely to cause serious bodily injury. No injury is necessary.”<sup>19</sup> Courts have said that punching is “capable of inflicting significant pain and causing serious injury.”<sup>20</sup>

Here, the video and reports show that Y1 was kicking at Y2, and Y2 was punching at Y1, when DJCO 1 deployed the first burst of OC at both youths. Noticeably absent from the reports are the areas of the body targeted by the assaultive behavior. However, the video footage clearly shows Y1 kicking upward towards Y2’s head, and Y2 punching downward towards Y1’s head. Thus, the likelihood that serious bodily injury could result was clear.

The youths were also engaged in battering each other at the time that DJCO 3 deployed her OC spray.

### Whether the Suspect Posed an Immediate Threat to the Safety of the Officers or Others

Courts have said that the most important element of the *Graham* factors is whether the suspect poses an immediate threat to the safety of the officers or others.<sup>21</sup> Here, the video and reports make clear that not only did Y1 run towards Y2, but as soon as he got to him, he immediately began to strike him. The reports also establish that even after given commands to “get down on the floor” by DJCO 1 and DJCO 2, the youths were still engaged in a physical fight. These facts establish that but for the DJCOs intervention, the fight would have continued. At the time of the first deployment of OC, the youths posed an immediate and ongoing threat to each other.

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<sup>14</sup> *Bryan v. MacPherson* (9th Cir. 2010) 630 F. 3d 805, 826.

<sup>15</sup> *Graham v. Connor* (1989) 490 U.S. 386 [109 S.Ct. 1865, 104 L.Ed.2d 443].

<sup>16</sup> Pen. Code, §§ 240, 242, 243(a).

<sup>17</sup> Pen. Code, §§ 242, 243(d), 245(a).

<sup>18</sup> *People v. Hopkins* (1978) 78 Cal.App.3d 316 [142 Cal.Rptr. 572].

<sup>19</sup> *People v. Hopkins* (1978) 78 Cal.App.3d 316 [142 Cal.Rptr. 572].

<sup>20</sup> *Reaza v. County of Riverside* (C.D.Cal. Oct. 26, 2022, No. 5:20-cv-01188-MEMF (SPx)) 2022 U.S.Dist.LEXIS 198653.

<sup>21</sup> *Chew v. Gates* (9th Cir. 1994) 27 F.3d 1432.

The same can be said for the second deployment of OC that was made by DJCO 3. Even though Y2 assumed the "duck and cover" position on the floor after being sprayed with OC by DJCO 1, by the time that DJCO 3 deployed her OC, Y1 had jumped onto Y2's back and the fight had fully resumed. It was not until DJCO 4 and DJCO 5 arrived to assist DJCO 1 and DJCO 2 in restraining the youth, that the youths stopped fighting. Therefore, DJCO 3's deployment of OC occurred while the youths posed an immediate and ongoing threat to each other.

#### Whether the Suspect was Actively Resisting Arrest or Attempting to Evade Arrest by Flight

The youths were not attempting to evade the DJCOs, however, they were clearly refusing to comply with the DJCOs commands to get down and were continuing to fight. Both DJCO 1 and DJCO 2 indicated in their reports that they gave commands to get down on the floor, prior to the deployment of OC, and that the youths ignored their commands and continued to fight.

It is true that after being sprayed, Y2 moved away from Y1, and laid on the ground in the "duck and cover" position. However, at the time that DJCO 3 deployed her OC, both youths were actively resisting DJCO 1 and DJCO 2's physical attempts to take custody of them.

Ultimately, in order to place the fighting non-compliant youths into custody, DJCO 1 and DJCO 2 had to do more than simply place compliant youths into handcuffs. In fact, both DJCOs had to physically pull Y1 and Y2 apart and hold them on the ground while they waited for assistance from additional staff to handcuff them.

#### Balancing the Force Used Against the Need for Such Force

Finally, in order to determine if force was excessive, courts "balance the gravity of the intrusion on the individual against the government's need for that intrusion."<sup>22</sup> Put another way, does the government's need for the force used, based on the severity of the crime, the threat to safety, and the resistance of the subject, outweigh the type and amount of force used?

The Ninth Circuit has said that the law is clearly established "that police officers employ excessive force in violation of the Fourth Amendment when they use pepper spray upon an individual who is engaged in the commission of a non-violent misdemeanor and who is disobeying a police officer's order but otherwise poses no threat to the officer or others."<sup>23</sup> That is not the situation that confronted the DJCOs in this incident.

As previously stated, the youths were engaged in, at a minimum, a violent misdemeanor, and potentially a violent felony, and they clearly disobeyed the DJCOs' order to get down and continued to fight after being sprayed. The most important distinction, however, is the fact that by continuing to fight, the youths clearly posed a threat to each other.

The youths involved in the fights were under the custody and care of the Probation Department. As such, the Probation Department had an obligation to protect them from harm. Prior to both deployments of OC, the youths posed an immediate threat to each other. Additionally, the harm that could have occurred to one or more of the involved youths from closed-fist strikes and kicks justified the

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<sup>22</sup> *Espinosa v. City & County of San Francisco* (9th Cir. 2010) 598 F.3d 528.

<sup>23</sup> *Silva v. Chung* (9th Cir. 2018) 740 F.App'x 883.

use of two one-second bursts of OC when the youths failed to follow commands to “get down on the floor.”

## Compliance with Department Procedure

### State Law

The State of California has set forth the requirements that a facility, which authorizes the use of chemical agents as a force option, must have in their policies and procedures.<sup>24</sup> Those requirements include that the policies mandate that chemical agents only be used when there is an imminent threat to the youth's safety or the safety of others and only when de-escalation efforts have been unsuccessful or are not reasonably possible;<sup>25</sup> that the policy outline the facility's approved methods and timelines for decontamination from chemical agents including that youth who have been exposed to chemical agents shall not be left unattended until that youth is fully decontaminated or is no longer suffering the effects of the chemical agent;<sup>26</sup> that the policy define the role, notification, and follow-up procedures required after a use of force incident involving chemical agents for medical, mental health staff, and parents or legal guardians;<sup>27</sup> and that the policy provide for the documentation of each incident of use of chemical agents, including the reasons for which it was used, efforts to de-escalate prior to use, youth and staff involved, the date, time and location of use, decontamination procedures applied and identification of any injuries sustained as a result of such use.<sup>28</sup>

### Department Procedure

#### Imminent Threat and De-escalation

The Probation Department has two procedures that address the use of OC by DJCOs in the course and scope of their duties.<sup>29</sup> The OC Procedure provides that OC spray may “only be used when there is an imminent threat to the youth’s safety and/or the safety of the officer or others and only when de-escalation efforts have been unsuccessful or are not reasonably possible.”<sup>30</sup> This verbiage is consistent with state law.

DJCO 1 attempted to de-escalate the situation by providing verbal commands to Y1 and Y2 to “get down on the floor.” DJCO 1’s de-escalation efforts were unsuccessful at ending the fight. At the time DJCO 1 deployed a one-second burst of OC, verbal de-escalation had failed, and the youths were actively fighting each other.

Similarly, DJCO 3 deployed a one-second burst of OC spray as the youths were actively re-engaged in the fight and were resisting the attempts of DJCO 1 and DJCO 2 to separate and restrain them. While DJCO 3’s report does not indicate that she personally made any attempts at de-escalation, it does indicate

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<sup>24</sup> Cal. Code Regs., tit. 15, § 1357 – Use of Force.

<sup>25</sup> Cal. Code Regs., tit. 15, § 1357(b)(2).

<sup>26</sup> Cal. Code Regs., tit. 15, § 1357(b)(3).

<sup>27</sup> Cal. Code Regs., tit. 15, § 1357(b)(4).

<sup>28</sup> Cal. Code Regs., tit. 15, § 1357(b)(5).

<sup>29</sup> Procedure Manual Item 3-1-056 Oleoresin Capsicum (OC) Spray – Facilities;  
Procedure Manual Item 3-1-015 Use of Force – Facilities.

<sup>30</sup> Procedure Manual Item 3-1-056 I(C) General Information.

that she was present during DJCO 1's attempts at de-escalation and was aware that they were unsuccessful in permanently ending the fighting.

### Decontamination

The Probation Department's OC Procedure requires that "[f]or youth exposed to OC spray, through a direct spray or over spray, decontamination measures must be undertaken as soon as practical after a youth is subdued and restrained."<sup>31</sup> The OC Procedure further states that youth shall be placed, "fully clothed, into a shower, at a sink, or on the patio with the garden hose, allowing cold water to freely fall onto the youth until the youth no longer feels the effects of the OC spray."<sup>32</sup>

According to DJCO 1, Y1 and Y2 were affected by intentional deployments of OC spray, and another youth, Y3, was affected by overspray. The reports indicate after the involved youths were secured, they were taken directly to separate shower areas to begin the decontamination process. A review of the reports shows that both Y1 and Y2 began the decontamination process within four minutes of the first deployment of OC.

The OC Procedure also states that exposed youth will then remove contaminated clothing and be issued clean clothing. The contaminated clothing shall be disposed of in a marked plastic bag.<sup>33</sup> According to the reports, both affected youths were provided with clean clothes and contaminated clothes were bagged and labeled.

Staff are also required to be with the youth throughout the entire decontamination process."<sup>34</sup> It was documented that three DJCOs stayed with Y1 while he showered. Another SIR documented that two DJCOs supervised Y2 in the shower.

According to a Use of Force Restraint form completed by DJCO 1, Y3 was affected by overspray during the incident and began decontamination at 21:08, which was approximately 36 minutes after the deployment of OC. Noticeably absent from the reports was an SIR with a written narrative that explained how staff were made aware of the overspray, accounting for the delay in commencing decontamination procedures, and describing the decontamination process.

### Notifications and Procedures after Use of Force Incidents

The OC Procedure requires that a DJCO who discharges an OC canister notify his or her supervisor as soon as possible.<sup>35</sup> The OC Procedure also makes clear that "[t]he staff member who sprayed the individual is responsible for advising medical personnel or others of the decontamination procedures."<sup>36</sup> The responsibility for contacting the youth's parent or legal guardian is assigned to the SJCO/Duty Officer or designee.<sup>37</sup> Lastly, while the OC Procedure requires that the youth must be referred to

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<sup>31</sup> Procedure Manual Item 3-1-056 II(F)(3) Decontamination/Aftercare Procedures. (The Department's Use of Force Policy, Procedure Manual Item 3-1-015 VIII(E) Medical and Mental Health Considerations, has been renumbered and amended to include language that decontamination measures must be undertaken as soon as practical after a youth is subdued and restrained.)

<sup>32</sup> Procedure Manual Item 3-1-056 II(F)(4) Decontamination/Aftercare Procedures.

<sup>33</sup> Procedure Manual Item 3-1-056 II(F)(7) Decontamination/Aftercare Procedures.

<sup>34</sup> Procedure Manual Item 3-1-056 II(F)(10) Decontamination/Aftercare Procedures.

<sup>35</sup> Procedure Manual Item 3-1-056 II(E)(1) Notification and Documentation.

<sup>36</sup> Procedure Manual Item 3-1-056 II(F)(13) Decontamination/Aftercare Procedures.

<sup>37</sup> Procedure Manual Item 3-1-056 II(F)(18) Decontamination/Aftercare Procedures.



Mental Health staff immediately following decontamination, it does not specifically identify whose responsibility it is to ensure that this section of the procedure is followed.<sup>38</sup>

DJCO 1's report indicates that a SJCO was on scene and aware of the deployment of OC. DJCO 1's report also indicates that "[m]edical was called for all youth involved in the physical altercation." The reports document that medical staff saw the two youths within 25 minutes of the incident and that both youths were cleared of any injuries. There is no indication in any of the reports that Y3 was seen by medical.

The records do indicate that all the guardians for the youths were notified, including the mother of Y3, who was affected by overspray. The records also indicate that the Clinical Evaluation Guidance Unit (CEGU) was notified of the fight between Y1 and Y2 within 10 minutes of the Code 2<sup>39</sup> being called.

### Documentation

Department procedure related to use of force provides that any DJCO involved in, or a witness to, a use of force, which includes the use of Chemical - Oleoresin capsicum (OC) spray, shall write and submit a SIR.<sup>40</sup> Further, the procedure requires that a SIR and Use of Force Report must include a clear and factual justification for the use of OC, efforts to de-escalate prior to use and reasons why de-escalation was not reasonably possible, the youth and staff involved, the date, time and location of use, decontamination procedures applied, and identification of any injuries and medical treatment.<sup>41</sup>

DJCO 1 appeared to have completed the main SIR for this incident, and seven other DJCOs prepared supplemental incident reports. DJCO 1's SIR identified the youths involved, as well as the actions taken by her prior to the use of force. DJCO 1's report also identified the reason why she deployed the OC.

While the reports laid out the activities that occurred after the use of force, several reports contained areas of concern. Specifically, DJCO 1 and DJCO 2's reports stated that "[w]hen both youth came into contact with the chemical restraint they ignored the staff directives and continued to fight." DJCO 3's report indicated that "[w]hen both youth came into contact with the chemical restraint they closed their eyes but continued to fight." These statements are clearly contradicted by the video which shows that immediately after being sprayed, Y2 moved away from Y1, and laid face down on the ground and placed his hands behind his head in the "duck and cover" position. Neither DJCO 1, DJCO 2, nor DJCO 3's reports mentioned anything about Y2 going to the ground and assuming the "duck and cover" position.

Additionally, neither DJCO 1 nor DJCO 2's reports mention that DJCO 3 deployed her OC spray.

DJCO 3's report indicated that she "deployed a one second burst of oc pepper about five feet away." This is inconsistent with the video. The second burst of spray, deployed by DJCO 3, was deployed at a much closer distance than the five feet that DJCO 3 indicated in her SIR. DJCO 3 is seen on the video walking directly up to the youths, who are on, or close to, the floor and continuing to fight while DJCO 1 and DJCO 2 are attempting to separate them. DJCO 3 is then seen bending down and extending her arm towards Y2's face before deploying the OC burst. A precise distance between the spray canister and

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<sup>38</sup> Procedure Manual Item 3-1-056 II(F)(17) Decontamination/Aftercare Procedures.

<sup>39</sup> A Code 2 indicates that there is a fight in progress.

<sup>40</sup> Procedure Manual Item 3-1-015 VIII(F) DJCO Responsibilities.

<sup>41</sup> Procedure Manual Item 3-1-056 II(E)(2) Notification and Documentation.

Y2's face is impossible to determine, but it appears from the video footage that the distance is likely less than two feet.

Finally, the reports do not provide any indication of whether someone remained with Y3 throughout the entire decontamination process.

#### *Recommendation*

Provide additional training reminding DJCOs of the importance of making sure that their reports are accurate and complete.

## Observations

It should be noted that the OC Procedure does not contain any minimum or maximum distances for the deployment of OC spray. Thus, the OC burst deployed by DJCO 3 at such a close distance was not prohibited at the time of this incident.

Additionally, DJCO 3's use of OC spray in this instance may have been a somewhat questionable tactical choice. At the time of the deployment, DJCO 1 and DJCO 2 were attempting to separate Y1 and Y2. Both youths were on or close to the floor. DJCO 1 was working to restrain Y1 while DJCO 2 was working to restrain Y2. After the time that DJCO 3 deployed the OC spray, DJCO 1 is seen quickly moving upwards as if to avoid the OC spray that is being or about to be deployed at Y2's face, which was near DJCO 1's face. The video footage suggests that the deputies may have had an easier time separating the youths had DJCO 3 immediately assisted either DJCO 1 or DJCO 2 in physically restraining one of the youths, rather than deploying OC spray at Y2. Moreover, in deploying OC spray at Y2's face, while DJCO 1 was in such close proximity to Y2 and attempting to restrain him, DJCO 3 risked causing the deputies to disengage from attempting to restrain the youth in order to get out of the way of the spray. In other words, DJCO 3's deployment of spray could have had the effect of frustrating efforts by DJCO 1 and DJCO 2 to separate the youths and end the fighting.

#### *Recommendation*

Provide additional training reminding staff that they should consider all available tactics and force options before deploying OC spray. While OC should not be considered a force option of "last resort," it also should not be employed in circumstances where a different tactic would be likely to lead to a better outcome, or where the use of OC may be counterproductive.

## Use of Force Review Board

On March 10, 2022, the Department's Use of Force Review Board convened and reviewed this use of force incident. The Board noted that while an SIR was completed with respect to Y3 (who was "oversprayed"), the reports did not document the documentation/aftercare process. The Board recommended "that if a youth is oversprayed, the decontamination/aftercare process be documented in the SIRs submitted."

The Interim Chief Probation Officer checked the box indicating that he concurred with the findings of the UOF Review Board, and that no further action was needed. However, there is no indication of how, or if, the Board's recommendation was implemented.

## Conclusion

A review of the SIR and Use of Force reports established that the uses of force used by DJCO 1 and DJCO 3 were within law and policy, and therefore appropriate. It is clear from the reporting that had DJCO 1 and DJCO 3 not deployed force, the youths would have continued to strike each other, possibly resulting in potentially serious injuries.

## Recommendations

1. Update PMI 3-1-056 to specifically state that OC spray is classified as an intermediate level of force.
2. Provide additional training reminding DJCOs of the importance of making sure that their reports are accurate and complete.
3. Provide additional training reminding staff that they should consider all available tactics and force options before deploying OC spray. While OC should not be considered a force option of “last resort,” it also should not be employed in circumstances where a different tactic would be likely to lead to a better outcome, or where the use of OC may be counterproductive.