



RE: Opposition to the Proposed Rule to Expand the Use of Oleoresin Capsicum (OC) Spray in Medium-Restriction Juvenile Facilities under 37 TAC §380.9723

The Use of OC Spray Runs Counter to
the Goals of Reentry Centers and Threatens Youth Rehabilitation

Medium-secure treatment facilities, like reentry centers,¹ are a core part of a broader reentry process overseen by the Texas Juvenile Justice Department (TJJD). As the agency noted itself, the program's focus is on "helping youth transition from secure residential care back into their communities."² However, the newly proposed rules expanding the use of OC Spray in medium-secure facilities run counter to the program's core purpose and hinder youths' continued rehabilitation. Texas is already one of only a handful of states that allow juvenile correctional officers to carry OC spray on their person in facilities, with 35 states outright banning the chemical restraint.³ This expansion will only put Texas further outside the norm and further away from best practices for rehabilitating youth.

Reentry centers were created to transition youth *out* of secure correctional settings, not to recreate a smaller version of those same correctional environments. Each of the youth admitted to a reentry center from high-restriction facilities has served their minimum length of stay and shown the necessary rehabilitative progress required for them to be released by the Release Review Panel (RRP). However, moving youth to a placement that is pitched as a "step-down" but has many of the same hard features as their previous high-restriction facility is counterproductive. This stage of the reentry process should focus on empowering youth and encouraging their continued rehabilitation, and creating a culture of trust that is more like the outside world. However, integrating OC spray into medium-restriction facilities will risk turning these environments into more punitive and less trusting settings.⁴

Additionally, the adoption of these chemical restraints will likely lessen the likelihood staff will fully use de-escalation techniques before using OC spray. These de-escalation techniques

¹ As of July 1, 2026, "halfway houses" are now referred to as "reentry centers" according to the agency. Texas Juvenile Justice Department, *Step-Down and Reentry*, (last visited Aug. 18, 2026), available at <https://www.tjjd.texas.gov/continuum-of-care/step-down-and-reentry/>

² Id.

³ The Appeal, *Pepper Spray is Toxic, Experts Say. So Why Is It Being Used on Children* (Sep. 2019), available at <https://theappeal.org/pepper-spray-is-toxic-experts-say-so-why-is-it-being-used-on-children/>.

⁴ See also Department of Justice, *Investigation of the Texas Juvenile Justice Department* at 10 (Aug. 2024), available at https://www.justice.gov/d9/2024-07/2024_tjjd_findings_report.pdf (finding excessive use of OC spray in the facilities and outlining risks of OC spray).

are crucial in creating a safe environment and in avoiding the overuse of force. Research shows that placements that rely on OC spray are less rehabilitative and can hamper relationships between youth and staff.⁵ A national survey by the Council of Juvenile Correctional Administrators (CJCA) observed that facilities that use pepper spray tend to be systems that adopt an overall more punitive and adult-correctional approach.⁶ The survey also found that an overreliance on restraints, including OC spray, damages the relationship between youth and staff, which is a key feature to cultivate a safe, rehabilitative environment.⁷

If youth in reentry centers are still dealing with significant behavioral issues, it may signal that the treatment they received in their previous facility was insufficient to address their mental health needs and other, treatment-based placement may be more appropriate. The agency continues to deal with significant staffing issues, which delay or interrupt rehabilitative programming that should be delivered consistently to support their growth. Because of the inconsistency of staff and services, some youth admitted to reentry centers may be exhibiting behaviors that are the result of untreated needs within their previous high-secure placement and need more therapeutic resources. However, implementing a broad, regressive policy change by allowing officers to carry OC spray like the one proposed will not help these youth rehabilitate or reintegrate into their home communities.

The Introduction of OC Spray Will Require Policy and Operational Changes

Once OC spray is allowed in these medium-secure facilities, it will require additional policy revisions to develop the standards required to use chemical restraints in these settings. These changes include increased staff oversight and training, guaranteeing medical staff are nearby, and ensuring there are surveillance cameras to hold staff and youth accountable. Additionally, each facility will have to ensure that decontamination stations are available for youth or staff to rinse off after a chemical agent is used. These policy changes and operational considerations will compound and continue to create a more correctional environment – shifting the culture of the reentry centers and undoing the gradual entry they are supposed to provide.

An Alternative Solution to Protect Staff Without Undoing the Culture of the Reentry Centers

It is important for staff at all of the TJJD facilities and reentry centers to be safe at work. If the Board feels that this policy change is necessary to prevent isolated incidents such as the one that occurred at Ayres House in May, then we encourage that it be locked up and accessible only for riot-type incidents and not carried around by staff at all times. OC spray is a harsh restraint, and its use should be severely limited to only the most extreme circumstances. Additionally, the requirements for medical consultations should be updated to mirror the

⁵ Council of Juvenile Correctional Administrators, Issue Brief on Pepper Spray in Juvenile Facilities (May 2011), available at https://cjsa.net/wpcontent/uploads/2022/04/CJCA_Issue_Brief_OC_Spray-2.pdf

⁶ Id.

⁷ Id.

standards in place for high-secure facilities, which guarantees youth the right to see medical staff after the chemical restraint has been used.

The expansion of chemical restraints into medium-restriction facilities is out of step with the goals of reentry and the broader juvenile justice system, and we strongly urge the Board to reconsider its adoption. The agency initially adopted the emergency rule following a specific incident - the likes of which have not been reported to have occurred in a medium-security facility prior to or since. Further, the agency made a permanent change that would prevent a similar incident from occurring: replacing the removable toilet tank covers with toilets that have no removable features. For these reasons, we argue the permanent rule change is unnecessary.

Texas Appleseed condemns the use of OC spray on youth and recommends that the agency and legislature invest in greater de-escalation training and further reduce the youth prison population altogether to lower the risk and burden on staff.

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