

 Office of Mental Health Official Policy Manual	Date issued 7/10/2026	Page 1 of 8	Section # A-3025B
	Section: Administration		
	Directive: Use of Oleoresin Capsicum (OC) Spray		
	Policy Owner: Director, Administrative Support Services Group		

A. Applicability

This policy is applicable to all New York State Office of Mental Health (OMH) Safety Officers who are trained to carry and use Oleoresin Capsicum gel (hereinafter “Pepper Spray”).

B. Policy Statement

It is the goal of OMH to provide a safe and therapeutic environment that protects and respects the safety and wellbeing of patients, staff, and visitors. OMH Safety Officers are designated as peace officers of New York State who are authorized to use reasonable and legitimate non-lethal force in specific circumstances. OMH acknowledges that while the use of Pepper Spray is not a suitable clinical response to a behavioral issue, its placement on the Use of Force continuum allows trained officers to utilize it on the legal premise of objective reasonableness. This policy sets forth the expectations for when Pepper Spray may be utilized by Safety Officers.

C. Purpose

The purpose of this policy is to establish guidelines for the training, use, storage, reporting, and decontamination of Pepper Spray.

D. Policy

It is the policy of OMH that Safety Officers must carry and maintain Pepper Spray during certain portions of their job. Safety Officers are expected to prioritize and use de-escalation training and verbal skills to defuse behavioral/crisis situations as feasible, but there are situations where the use of force is justified. If Pepper Spray is deployed by a Safety Officer on a person in or around a facility to protect people from harm, the event precipitating the deployment is expected to be handled as criminal activity and the perpetrator is to be placed into custody of local law enforcement.

E. References

A-3004, Safety officer training
A-3006, Pre-shift briefing
A-3007, Weapon control: Firearms/Pepper or Oleoresin Capsicum Spray
A-3019, Uniform regulations and specifications

A-3023, Use of force

F. Definitions

1. Objectively reasonable means an objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight and based on that totality of the fact and circumstances that are known to that officer at the time that the force was used.¹
2. De-escalation means taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of force techniques such as command presence, advisements, warnings, verbal persuasion, and tactical repositioning. When interacting with patients, officers shall apply de-escalation techniques before applying force, except where the officer reasonably believes that de-escalation techniques would result in harm to the officer, patient, or a third-party and would frustrate the officer's lawful objective.
3. Physical injury means impairment of physical condition or substantial pain.²
4. Serious physical injury means a physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.³
5. Deadly physical force means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.⁴
6. Pepper spray, also known as Oleoresin Capsicum spray, means an inflammatory agent that combines the effect of red peppers, including cayenne peppers, with a mixture of resin and essential oil occurring naturally in various plants. The effects of Pepper Spray include the involuntary closing of the eyes, inflammation of mucous membranes in the eyes, nose, and throat, a burning sensation to exposed skin, a cough reflex that is triggered by the inhalation of Pepper Spray, and a burning sensation in the nose.

G. Procedure

1) Use of Pepper Spray

- (a) Pepper Spray shall be dispensed using the face area of the subject as the point of aim.

¹ NY Penal Law §10 (10)

² NY Penal Law §10 (9)

³ NY Penal Law §10 (10)

⁴ NY Penal Law §10 (11)

- (b) Unless otherwise reasonably justified, Pepper Spray shall be dispensed from a distance of at least 3 feet from the individual.
- (c) Pepper Spray shall be dispensed in two, one-second initial bursts. If the subject appears unaffected by the Pepper Spray due to shielding, glasses, etc., the Safety Officer may sidestep and reapply to their eye and nose area or use other appropriate force actions⁵.
- (d) After application, the Officer shall allow time for Pepper Spray to take effect, give verbal commands to control, and handcuff as soon as possible.
- (e) Continued application of OC spray is not effective. Once a sufficient amount is applied, extra OC spray will not result in more effects.
- (f) Once a subject is incapacitated or restrained, the use of Pepper Spray is no longer justified.
- (g) The decision to display, draw, or deploy Pepper Spray must be based on a Safety Officer's reasonable belief that the potential for physical injury is present. When a Safety Officer determines that the potential for physical injury is no longer present, the Safety Officer shall holster the Pepper Spray as soon as possible.
- (h) After Pepper Spray is utilized, that canister shall be taken out of service and separated from all others for a minimum of 48 hours for potential investigation.

2) Prohibitions

- (a) Safety Officers shall not utilize Pepper Spray without first having reasonable cause to do so.
- (b) Safety Officers shall not use Pepper Spray in a punitive or retaliatory manner against a subject.
- (c) Safety Officers shall not discharge Pepper Spray directly into the eyes of a subject from less than 3 feet away (to avoid the "hydraulic needle" effect), unless deadly physical force, as defined in the use of force policy, is required.
- (d) Safety Officers shall not knowingly discharge Pepper Spray in quantities grossly in excess (over contamination) of those typically necessary to temporarily incapacitate a violent subject and bring them under control.
- (e) Safety Officers shall not delay, without reasonable cause, the provision of decontamination of a subject who has been contaminated with Pepper Spray.

⁵ Please refer to A-3023 – Use of Force

- (f) Pepper Spray shall not be used on individuals receiving OMH-operated or licensed services, or in inpatient wards, except in situations where the use of deadly physical force is justified.⁶

3) Approved Carrying Locations

- (a) Pepper Spray shall only be maintained and carried as part of a Safety Officer's uniform.
- (b) Safety Officers shall be prohibited from possessing OMH-issued Pepper Spray while off-duty. Safety Officers may carry Pepper Spray off-campus in the course of their official OMH duties but may not otherwise remove it from OMH grounds without written permission from the Chief Safety Officer or except for the purposes of attending training approved by Central Office.
- (c) Safety Officers shall wear Pepper Spray on their duty belt forward of their hips at all times while on duty, including when conducting on-campus and off-campus patrol. This includes when Safety Officers are conducting facility rounds, and when the Safety Officer is within the inpatient and outpatient living environment.

4) Procedures for Physical Control

- (a) Once the subject is temporarily incapacitated from the effects of Pepper Spray, Safety Officers shall obtain physical control of the subject pursuant to applicable policy and protocol.
- (b) Safety Officers shall ensure that the contaminated subject is prevented from injuring themselves or others. These individuals will likely be experiencing a sense of panic and physiological overload and should be brought under immediate control using physical restraint and verbal calming techniques.
- (c) As soon as it is safe to do so, decontamination procedures should commence.

5) Decontamination

- (a) Decontamination agents/wipes shall be carried in patrol cars. Every Safety Officer who has Pepper Spray in their possession shall carry on their person an approved decontamination agent/wipe, if available.
- (b) Decontamination of subjects – To prevent further injury to the subject, and in the interest of officer safety, Safety Officers should not attempt to decontaminate the subject until they are fully compliant. The subject is fully compliant when they

⁶ Please refer to A-3023 – Use of Force – which states, “In situations in which alternative procedures and methods not involving physical force cannot be reasonably employed, this policy does not prevent Safety Officers from using reasonable force when necessary to protect themselves or others from physical injury, serious physical injury, or deadly physical injury”

follow the officer's verbal commands. The officer shall begin decontaminating the subject by:

- i. Removing the subject(s) from the contaminated area, ideally using verbal commands.
- ii. Exposing the subject(s) to fresh air and having them face downwind.
- iii. Determine/investigate whether the subject(s) is/are wearing contact lenses.

If yes, have the subject remove their contact lenses. Hard lenses can have normal cleaning to remove Pepper Spray particulate. Soft contact lenses must be discarded.

- iv. Determine/investigate whether the subject(s) is/are experiencing medical problems and needs/wants medical attention.

If yes, the subject should be immediately transported to a medical facility. EMS should be advised that the subject has been exposed to Pepper Spray.

- v. Having the subject blow their nose to help remove Pepper Spray particles.
- vi. Applying decontamination wipes/agents to the face/eyes of the exposed subject(s) to assist with decontamination. If decontamination wipes/agents are unavailable, exposed subject(s) shall have their eyes rinsed with water and provided fresh air. If the feelings of pain persist, and it is available, dish soap or baby soap may be utilized to help accelerate the decontamination process.

6) Reporting Procedures

- (a) Accidental discharges, as well as intentional uses of Pepper Spray against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as practicable.
- (b) A Use of Force report shall be completed following all discharges of Pepper Spray gel except during testing, training, malfunction, or accidental discharge.
- (c) A use of Force report shall be completed following any event that meets the requirements of the Use of Force policy.⁷
- (d) Any discharge of Pepper Spray gel shall require the completion of a Pepper Spray discharge form.

The Pepper Spray discharge form shall include:

- i. The lot number of the spray;

⁷ See: A-3023 – Use of Force – X:Reporting Use of Force

- ii. The serial number of the spray;
 - iii. The date and approximate time of application;
 - iv. The location of application; and
 - v. The name of the person who deployed the spray.
- (e) Unexplained depletion of Pepper Spray canisters shall require an investigation and written memo by both the officer and the officer's supervisor to the commanding officer of the unit.
- (f) Supervisors and/or Command Officers will undertake further investigations of the incident whenever warranted.
- (g) All reports and documentation shall be provided to the Director of Environmental Health and Safety or their designee within one week of completion.
- (h) If Pepper Spray is used on an individual receiving OMH services, Safety shall submit the ADM 250 investigative report to the facility Risk Management Department and the Office of Quality Improvement (OQI) as soon as possible, but not to exceed 72 hours from the time of the incident. Reports can be submitted to OQI via email at DQM@OMH.NY.Gov. In addition, incidents involving excessive force must be reported to the NYS Justice Center.

7) Training

- (a) Only Safety Officers who are currently certified in Aerosol Subject Restraint (ASR) from certified instructors shall be authorized to carry and utilize Pepper Spray.
- (b) All training on ASR shall be documented and made a part of the officer's training file.
- (c) All officers who are authorized to carry Pepper Spray shall be required to be exposed to Pepper Spray as part of their training or be required to provide documentation to the Director of Environmental Health and Safety or their designee certifying that they had been exposed to Pepper Spray in a professional capacity previously. The validity of past documentation shall be at the discretion of the Director of Environmental Health and Safety or their designee.
- (d) Each officer trained and certified in the use of Pepper Spray shall be given an in-service refresher training at least annually and a record shall be maintained of such in-service training.
- (e) If after administrative review there is reason to believe that an officer is not sufficiently skilled in the use of ASR, that officer shall be given personal instruction by a certified instructor prior to resuming official duties that require the carrying of Pepper Spray until that officer demonstrates both sufficient skill and knowledge in the

application of Pepper Spray. This training record shall be documented and maintained.

8) Approved Devices

- (a) Only Pepper Spray dispersal devices authorized by the Director of Environmental Health and Safety, or their designee, through written order shall be carried or used by Safety Officers who are permitted to carry Pepper Spray. Pepper Spray dispersal devices shall be standardized in manufacturer, spray medium, and OC percentage.
- (b) If OMH-authorized Pepper Spray dispersal devices become unobtainable, (i.e., The supplier stops manufacturing or supplying the approved devices) the Director of Environmental Health and Safety or their designee shall be responsible for determining a suitable replacement dispersal device.

9) Pepper Spray Canister Assignment

- (a) Each officer who is approved to carry Pepper Spray shall have a canister assigned to them by the Chief of Safety or their designee.
- (b) The Chief of Safety or their designee shall be responsible for noting the following for each assigned Pepper Spray canister at the time of assignment:
 - i. The name and brand of the canister;
 - ii. The lot number of the canister;
 - iii. The serial number of the canister;
 - iv. The expiration date of the canister;
 - v. The weight of the canister; and
 - vi. The name of the individual who has been assigned this canister.

The Chief of Safety or their designee shall be responsible for maintaining this documentation.

10) Pepper Spray Canister Replacement

- (a) Assigned personnel shall maintain all Pepper Spray devices in an operational and charged state.
- (b) Replacements of Pepper Spray canisters shall occur when the unit is less than half full. This can be verified by weighing the canister.
- (c) The Chief of Safety or their designee shall maintain a record of Pepper Spray canister replacements.

- (d) Canisters which have been determined as requiring a replacement should be utilized for training purposes until they are completely emptied and then disposed of as trash.
- (e) Pepper Spray is to be considered an issued part of the uniform. If the Pepper Spray canister is missing, stolen, damaged, or destroyed and is unserviceable, the officer will report that information to their supervisor. The supervisor will submit the proper paperwork to the Chief of Safety. The officer may be held accountable financially for the Pepper Spray's replacement if it has been determined that it was stolen or damaged due to an off-duty encounter.

(i) Inspection Requirements

- (a) Officers are required to perform a daily visual inspection of their Pepper Spray canisters to ensure that they appear to be in good working condition, that the nozzle is clean, and that they have not gone past their expiration dates. Any discrepancies should be reported to the officer's supervisor prior to going on patrol.
- (b) Supervisors or ASR instructors shall be responsible for performing an inspection of all Pepper Spray canisters every six months. During this inspection, lot numbers, serial numbers, and expiration dates shall be confirmed, canisters shall be weighed, and any damage to the canister should be recorded. This information shall be maintained in the blotter.

11) Storage

- (a) Canisters shall be stored at a temperature that shall not drop below 40°F and shall not exceed 120°F.
- (b) Canisters shall be stored and maintained in such a way that they are not exposed to prolonged sunlight.
- (c) Canisters which are stored and maintained by the Chief of Safety, or their designee, shall be kept in a locked flammables storage cabinet prior to distribution.
- (d) While being stored on an officer's person, canister holsters shall be required to have a closed-top that secures with either a button or hook-and-loop fastener (i.e., "Velcro").