



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

WAUNYE CALM
Howard R. Young Correctional Institution
1301 E. 12th St.
Wilmington, Delaware 19802

BRANDON GATEWOOD
Howard R. Young Correctional Institution
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Wilmington, Delaware 19802

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ZAKEE LLOYD
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1301 E. 12th St.
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DEVON YOUNG
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Civil Action No. 2026-_____

Plaintiffs,

v.

TERRA TAYLOR, in her official
capacity as Commissioner of the
Delaware Department of Correction
245 McKee Rd.
Dover, Delaware 19904

Defendant.

PLAINTIFFS' VERIFIED CLASS ACTION COMPLAINT FOR
INJUNCTIVE RELIEF AGAINST DEFENDANT TERRA TAYLOR

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INTRODUCTION

Nearly every day, Delaware correctional officers use a class of chemical agents against incarcerated people that can seriously injure or kill them. The class of chemical agent is *oleoresin capsicum*, OC for short. OC chemicals are derived from the oil of hot pepper plants. Like hot pepper plants, OC chemicals are measured on the Scoville Heat Unit (SHU) scale, with higher numbers indicating more intense heat. Ordinary bell peppers have a Scoville rating of zero SHU. Jalapeño peppers have a Scoville rating of 3,500–8,000 SHU. The OC chemicals that the Delaware Department of Correction uses against incarcerated people has a Scoville heat rating of 2,000,000.

Delaware correctional officers use a variety of weapons to deploy this chemical agent, including handheld spray, grenades, pellets fired from what is essentially a paintball gun, foggers, and 40-gauge “muzzle-blast” rounds. Across the Delaware prison system, correctional officers use OC weapons hundreds of times every year.

OC chemicals are dangerous. As set forth infra ¶¶ 33-36, they cause a number of harmful physical and psychological effects, including restriction of airways, difficulty breathing, cardiovascular distress, and intense burning sensations on the eyes, skin, throat and other affected areas. Psychological effects include a feeling of suffocation, a sense of helplessness, and overwhelming panic. Left untreated, OC exposure risks severe chemical burns, blindness, and respiratory failure, among other health complications. There are now numerous documented deaths in custody as a result of the misuse of OC chemicals.

Because OC chemicals are so dangerous, the Delaware Department of Correction's policies and training procedures mandate that correctional officers decontaminate incarcerated people after the use of OC weapons. Those same internal DOC materials also set forth the procedure by which Delaware correctional officers can properly decontaminate an individual exposed to these chemicals.

In direct violation of these DOC policies and procedures, Delaware correctional officers do not decontaminate individuals after they use OC weapons, instead leaving them to marinate in the chemical residue for hours, days, or weeks.

The failure of Delaware correctional officials to decontaminate sprayed individuals is exacerbated by the fact that correctional officers deploy OC weapons when they're not necessary, without warning, without determining whether the individual has underlying health conditions, and without mitigating the risks through proper deployment of the weapons. In sum, the Department of Correction's refusal and failure to decontaminate individuals exposed to Sabre Red and related chemical weapons is cruel, inhumane, unnecessary, and unconstitutional.

Plaintiffs are Waunye Calm, Brandon Gatewood, Isaiah Harber, Jyaire Henry, Dewitt Johnson, Zakee Lloyd, Dennis Williams, and Devon Young. They are incarcerated in Delaware. They have all been subjected to cruel punishment inflicted by correctional officers employed by the Delaware Department of

Correction. Specifically, they have all been exposed to OC weapons without any subsequent decontamination.

On behalf of themselves and all other similarly situated individuals currently incarcerated in the State of Delaware, Plaintiffs bring this Verified Complaint for Injunctive Relief against Terra Taylor in her official capacity as the Commissioner of the Delaware Department of Correction. Taylor's and the Department's total failure to decontaminate individuals exposed to OC weapons violates the state constitutional prohibition of cruel punishment enshrined in Delaware's Bill of Rights. Plaintiffs seek injunctive relief only, to enjoin the use of OC weapons unless and until the Delaware DOC follows its own policies and procedures for decontamination after every use of an OC weapon against an incarcerated person.

PRELIMINARY FACTS

1. Nearly every day, a Delaware correctional officer uses an OC weapon on a person incarcerated in Delaware.

2. The Delaware DOC issues all Delaware correctional officers the Sabre Red MK-2 Trigger Top, a handheld canister containing OC in aerosol form.

Exhibit A, at DOC_SCI_0041439.¹ Correctional officers also have access to—and use—other types of OC weapons, including aerosol grenades, sprayable aerosol

¹ The “OC Aerosol” slide deck attached as Exhibit A is one version of the slide deck used to train all new Delaware correctional officers about OC weapons. It bears the notation Attorneys Eyes Only (“AEO”), which was applied by defense counsel during discovery in another case—*Davis v. Neal*, No. 1:21-cv-1773 (D. Del.). Defense counsel subsequently released the slide deck from the AEO designation, and a copy of the slide deck was filed on the public docket. (D.I. 439-3.)

gel, pepper ball guns, a high capacity “Cell Buster” fogger spray, and 40-millimeter OC “muzzle blast” rounds fired from a launcher. Exhibit A, at DOC_SCI_0041438-43.

3. OC weapons pose serious physical and physiological health risks. Short-term physical side effects include difficulty breathing, cardiovascular distress, and intense burning sensations on the eyes, skin, and throat. Exhibit A, at DOC_SCI_0041435-36. Short-term psychological effects may include a feeling of suffocation, a sense of helplessness, and overwhelming panic. *Id.* at DOC_SCI_0041437. Left untreated, OC exposure risks severe chemical burns, blindness, and respiratory failure, among other health complications.²

4. Because of those effects, DOC training materials and the manufacturer’s instructions mandate immediate decontamination. Starting decontamination requires flushing the subject’s eyes and skin for 15 minutes and monitoring the person to determine whether emergency medical care is required. Exhibit A, at DOC_SCI_0041455.

5. Nonetheless, Delaware correctional officers routinely refuse and fail decontaminate people who are exposed to OC, instead leaving them to marinate in

² Jamie Smith, *Pepper Spray: Effects, Treatment, and Complications*, Med. News Today (June 3, 2025), <https://www.medicalnewstoday.com/articles/238262>; Am. Acad. of Ophthalmology, *Ocular Exposure to Pepper Spray and Tear Gas: Evaluation and Management*, 2 (2026), <https://www.aao.org/education/clinical-statement/ocular-exposure-to-pepper-spray-tear-gas-evaluatio>; MF Yeung & William YM Tang, *Clinicopathological Effects of Pepper (Oleoresin Capsicum) Spray*, 21 Hong Kong Med. J. 542, 544 (2015), <https://www.hkmj.org/abstracts/v21n6/542.htm>; Gary J. Lenehan & Michael J. Schury, *Oleoresin Capsicum*, StatPearls (Feb. 26, 2024), <https://www.ncbi.nlm.nih.gov/books/NBK544263/>.

the chemical residue for hours, days, or even weeks. There are hundreds of OC deployments without decontamination across the Delaware prison system every year. DOC internal use of force documentation produced in *Davis v. Neal* (D. Del. Case No. 1:21-cv-1733) show that there are hundreds of use of force incidents in Delaware prisons every year. Evidence and testimony from the *Davis* case and another pending excessive force lawsuit³ make clear that the vast majority of these use of force incidents involve OC weapons.

6. Plaintiff Jyaire Henry, for example, was sprayed—without warning—with Sabre Red from less than a foot away while his hands were cuffed behind his back. Affidavit and Verification of Jyaire Henry (“Henry Aff.”) ¶¶ 7-8, attached as **Exhibit B**. Henry was never decontaminated and was not allowed to shower until the next day. Henry Aff. ¶¶ 11-12. Plaintiff Dennis Williams was sprayed with Sabre Red a mere two inches from his face. Affidavit and Verification of Dennis Williams (“Williams Aff.”) ¶ 17 attached as **Exhibit C**. Williams too was never decontaminated and was not permitted to shower for a full day. Williams Aff. ¶¶ 30, 35. Plaintiff Zakee Lloyd has been sprayed without decontamination multiple times. Affidavit and Verification of Zakee Lloyd (“Lloyd Aff.”) ¶¶ 10, 23, 28, attached as **Exhibit D**. On the first occasion, correctional officers sprayed Sabre Red through an opening in Lloyd’s cell door, then locked the door for ten minutes while Lloyd struggled to breathe. Lloyd Aff. ¶¶ 10-12. Lloyd was never

³ *Flores v. Emig*, No. 1:25-cv-100 (D. Del.).

decontaminated and was not allowed to shower for three days. Lloyd Aff. ¶¶ 18, 28.

7. Refusing to decontaminate prisoners is cruel because it subjects them to hours or days of needless suffering. Prolonged exposure is also potentially deadly. The health consequences of not decontaminating sprayed individuals are exacerbated by the fact that Delaware prisoners are often sprayed without warning; at point-blank range; in confined spaces; using continuous streams of OC instead of short bursts; while bound or otherwise incapacitated; and without regard to underlying health conditions.

8. Plaintiffs Waunye Calm, Brandon Gatewood, Isaiah Harber, Jyaire Henry, Dewitt Johnson, Zakee Lloyd, Dennis Williams, and Devon Young are incarcerated in Delaware. They have all been subjected to the cruel use of OC weapons by Delaware correctional officers. On behalf of themselves and all other similarly situated individuals currently incarcerated in Delaware, Plaintiffs bring this Verified Complaint for injunctive relief against Terra Taylor, in her official capacity as the Commissioner of the Delaware Department of Correction.

9. Although several of the Plaintiffs were seen by medical staff such as nurses, none of the Plaintiffs were decontaminated—either by correctional officers or medical staff.

10. DOC's consistent refusal and failure to decontaminate individuals exposed to OC, exacerbated by the ways in which correctional officers improperly use OC sprays, violates the state constitutional prohibition of cruel punishment enshrined in Article I, Section 11 of the Delaware Bill of Rights. Plaintiffs seek

injunctive relief to enjoin the continued infliction of cruel punishment by Delaware correctional officers in violation of Delaware’s Constitution. Plaintiffs wish to be clear: they are not seeking to enjoin the use of OC weapons in Delaware prisons. They are seeking to enjoin the use of OC weapons unless and until Delaware correctional officers follow the DOC’s own policies and training requirements for decontamination.

PARTIES

11. Each named Plaintiff has been subjected to use of an OC weapon in a Delaware prison. Some have been sprayed with Sabre Red. Some have been assaulted with additional, even more potent OC weapons.

12. Plaintiff Waunye Calm is an adult currently incarcerated at the Howard R. Young Correctional Institution (“Howard Young”) in Wilmington, Delaware. Affidavit and Verification of Waunye Calm (“Calm Aff.”) ¶ 4, attached as **Exhibit E**. In November 2025, Calm was inadvertently sprayed with Sabre Red, which was intended for another prisoner. Calm Aff. ¶ 7. Calm was not decontaminated. Calm Aff. ¶ 17.

13. Plaintiff Brandon Gatewood is an adult currently incarcerated at Howard Young. Affidavit and Verification of Brandon Gatewood (“Gatewood Aff.”) ¶ 4, attached as **Exhibit F**. Gatewood was previously incarcerated at the Sussex Correctional Institution (“SCI”) in Georgetown, Delaware. Gatewood Aff. ¶ 4. At all times relevant to this case, Gatewood was incarcerated at SCI. Gatewood Aff. ¶ 4. In August 2022, Gatewood was sprayed with Sabre Red without warning.

Gatewood Aff. ¶ 7. Gatewood was not decontaminated. Gatewood Aff. ¶ 7.

Gatewood was not permitted to shower until the next day. Gatewood Aff. ¶ 11.

14. Plaintiff Isaiah Harber is an adult currently incarcerated at Howard Young. Affidavit and Verification of Isaiah Harber (“Harber Aff.”) ¶ 4, attached as **Exhibit G**. On December 12, 2025, Harber was sprayed with Sabre Red twice, including once while his hands and feet were bound. Harber Aff. ¶¶ 5-8, 18-19. Harber was not decontaminated. Harber Aff. ¶ 29.

15. Plaintiff Jyaire Henry is an adult currently incarcerated at Howard Young. Henry Aff. ¶ 4. On October 3, 2025, Henry was sprayed with Sabre Red without warning while handcuffed and lying on the ground. Henry Aff. ¶¶ 5, 8. Henry was not decontaminated. Henry Aff. ¶ 12. Henry was not permitted to shower until the next day. Henry Aff. ¶ 11.

16. Plaintiff DeWitt Johnson is an adult currently incarcerated at Howard Young. Affidavit and Verification of DeWitt Johnson (“Johnson Aff.”) ¶ 4, attached as **Exhibit H**. Johnson has asthma. Johnson Aff. ¶ 6. In 2022, Johnson was sprayed with Sabre Red without warning at close range. Johnson Aff. ¶¶ 7-8. Johnson was not decontaminated. Johnson Aff. ¶ 9. Johnson was not permitted to shower for at least one day. Johnson Aff. ¶ 9. On October 22, 2025, Johnson was repeatedly sprayed with Sabre Red at close range. Johnson Aff. ¶¶ 10-14. Johnson was not decontaminated. Johnson Aff. ¶ 19. Johnson was not permitted to shower until two days later. Johnson Aff. ¶ 19. On January 24, 2026, Johnson was repeatedly sprayed with Sabre Red at close range and without warning. Johnson Aff. ¶¶ 22-23, 27-28. Johnson was not decontaminated. Johnson Aff. ¶¶ 29, 31.

Johnson was not permitted to shower until at least two days later. Johnson Aff. ¶ 29.

17. Plaintiff Zakee Lloyd is an adult currently incarcerated at Howard Young. Lloyd Aff. ¶ 4. Lloyd was previously incarcerated at James T. Vaughn (“Vaughn”). Lloyd Aff. ¶ 4. At all times relevant to this case, Lloyd was incarcerated at Vaughn. Lloyd Aff. ¶ 4. On March 4, 2024, Lloyd was repeatedly sprayed with Sabre Red. Lloyd Aff. ¶¶ 10, 23. Lloyd was not decontaminated. Lloyd Aff. ¶¶ 27-28. Lloyd was not permitted to shower until three days later. Lloyd Aff. ¶ 18.

18. Plaintiff Dennis Williams is an adult currently incarcerated at Howard Young. Williams Aff. ¶ 4. Williams has asthma. Williams Aff. ¶ 5. On December 12, 2025, Williams was sprayed with Sabre Red at close range. Williams Aff. ¶¶ 6, 17. Williams was not decontaminated. Williams Aff. ¶¶ 26, 35. Williams was not permitted to shower for at least 24 hours after being sprayed. Williams Aff. ¶ 30.

19. Plaintiff Devon Young is an adult incarcerated at James T. Vaughn. Affidavit and Verification of Devon Young (“Young Aff.”) ¶ 4, attached as **Exhibit I**. Young was previously incarcerated at SCI. Young Aff. ¶ 4. At all times relevant to this case, Young was incarcerated at SCI. Young Aff. ¶ 4. Young has asthma. Young Aff. ¶ 5. On January 30, 2026, Young was sprayed with Sabre Red without warning. Young Aff. ¶¶ 6, 15. Young was not decontaminated. Young Aff. ¶ 25. Young was not permitted to shower for at least one day. Young Aff. ¶ 24.

20. Defendant Terra Taylor, sued in her official capacity, is the Commissioner of the Delaware Department of Correction. She has served in this role since her confirmation by the Delaware Senate in February 2024. As Commissioner, Taylor is the state executive official responsible for directing all prison operations in the State of Delaware, including DOC's correctional officer training program, use of force policy, and correctional officer disciplinary system. Taylor is also the state executive official responsible for ensuring that Department employees comply with the law, regulations, and Department procedures.

21. Under Delaware law, "[t]he Commissioner shall assume full and active charge of the Department, its facilities and services, and is the chief executive and administrative officer of the Department." 11 *Del. C.* § 6516. Defendant Terra Taylor therefore has the authority to order compliance with existing DOC training and policies and otherwise order that correctional officer decontaminate prisoners after using OC weapons against them.

22. Although the pending *Davis* and *Flores* excessive force cases have revealed that correctional officers routinely deploy Sabre Red and other OC weapons without decontamination, in violation of the DOC's own policy and training mandates, Taylor has not corrected the pervasive problem of deploying OC weapons without proper subsequent decontamination.

23. Commissioner Taylor gave sworn deposition testimony in the *Davis v. Neal* case. During that deposition, she reviewed DOC's OC Aerosols PowerPoint training presentation, attached as Exhibit A, which sets forth DOC's OC decontamination procedures. Commissioner Taylor nonetheless repeatedly

testified that DOC does not have “a specific process or checklist for decontamination for OC.” Taylor Dep. 125:21-22; *see* Taylor Dep. 129:16-17 (“There’s not a checklist of things that must be done to decontaminate.”); Taylor Dep. 173:16-18 (“Again, I don’t believe that there is a checklist for a decontamination process for OC spray within the Department of Correction.”); Taylor Dep. 174:5-7 (similar). She testified that the decontamination instructions contained in the OC Aerosols presentation did not constitute a decontamination checklist, Taylor Dep. 171:2-6, and were instead merely a “training tool,” Taylor Dep. 176:13-14.

24. When asked, “[d]o you believe correctional officers have an obligation to decontaminate the people they OC-spray,” Commissioner Taylor responded: “I do not believe that.” Taylor Dep. 175:2-5.

25. Commissioner Taylor further testified that, notwithstanding the serious allegations of excessive force in the *Davis* case and expert testimony that DOC’s widespread non-decontamination practice results in “unnecessary pain and suffering,” Taylor Dep. 147:2-6; Taylor Dep. 147:10-16, neither she, nor anyone else in the Department had taken steps to require decontamination or otherwise revise DOC procedures. Taylor Dep. 331:19-332:2; Taylor Dep. 25:11-16.

JURISDICTION AND VENUE

26. This Court has jurisdiction over Plaintiffs’ state constitutional claim for injunctive relief under 10 *Del. C.* § 341, which gives the Court of Chancery “jurisdiction to hear and determine all matters and causes in equity,” and 10 *Del.*

C. § 6501, which gives Delaware state courts “power to declare rights, status and other legal relations whether or not further relief is or could be claimed.”

27. This Court has personal jurisdiction over Defendant Terra Taylor because she resides in and is a citizen of the State of Delaware.

28. Venue is proper in this court under 10 *Del. C.* § 341, which permits the Chancery Court to hear all matters and causes in equity, and 10 *Del. C.* § 301, which authorizes the Court to sit in this county.

**CONSENSUS ON PROPER USE OF OC WEAPONS AND
PROPER DECONTAMINATION**

A. OC weapons can seriously injure or kill people.

29. OC weapons contain chemical compounds derived from chili peppers called capsaicinoids. Exhibit A, at DOC_SCI_0041430. They are used by Delaware correctional officers to incapacitate prisoners by causing intense pain and temporary blindness.

30. A slide deck used for DOC training presentations explains that, as with edible chili peppers, the potency of pepper spray can be measured on the Scoville Heat Unit (“SHU”) scale, with higher numbers indicating more intense heat. Exhibit A, at DOC_SCI_0041433. Ordinary bell peppers have a Scoville rating of zero SHU; jalapeño peppers have a Scoville rating of 3,500–8,000 SHU. *Id.* The SHU of the DOC’s OC weapons is 2,000,000. Exhibit A at DOC_SCI_0041433.⁴

⁴ See also, e.g., Primary Arms, <https://www.primaryarms.com/sabre-red-mk-2-cone-pepper-spray-level-III-1-8-oz> (last visited Apr. 28, 2026).

31. Another metric commonly used to gauge an OC product's potency is its major capsaicinoid content ("MCC"), which represents the concentration of heat-producing compounds in the OC product. DOC training materials explain that,

The Delaware DOC has chosen to go with the Level 3 Sabre Red OC Spray. The "Red" Guarantees a 1.33% MCC. ***This is the highest MCC rating available through Sabre*** without using the Bear Attack Spray line which is not safe for human use. A can of the Bear Spray exploded on a person, and it literally peeled the skin of [sic] the subject.

Exhibit A, at DOC_SCI_0041433.

32. Because of their chemical potency, Sabre Red and other OC weapons can cause significant physical and psychological injuries. *See, e.g.*, Exhibit A, at DOC_SCI_0041435-37 (documenting dozens of physiological and psychological effects caused by Sabre Red).

33. Short-term physical effects include paralysis of the larynx (which causes difficulty breathing, uncontrollable coughing and gagging, and an inability to speak), temporary blindness, cardiovascular distress, and burning sensations on the eyes, skin, and throat. Exhibit A, at DOC_SCI_0041435-36.⁵

34. According to DOC, psychological effects include a "feeling of suffocation," a "sense of helplessness," a "possible inability to hear what the officer

⁵ *See also* Physicians for Hum. Rts. & Int'l Network of C.L. Orgs., *Health Impacts of Crowd-Control Weapons: Chemical Irritants (Tear Gas and Pepper Spray)* (2017), <https://phr.org/our-work/resources/health-impacts-of-crowd-control-weapons-chemical-irritants-tear-gas-and-pepper-spray/>; James D. Barry et al., *A Randomized Controlled Trial Comparing Treatment Regimens for Acute Pain for Topical Oleoresin Capsaicin (Pepper Spray) Exposure in Adult Volunteers*, 12 *Prehospital Emergency Care* 432, 432 (2008).

is saying,” fear, and a fixation on pain. Exhibit A, at DOC_SCI_0041437 (capitalization altered). DOC training materials warn correctional officer trainees that “[g]iven the Sabre Red has a MCC rating of 1.33%, Panic may happen more often than not, given the higher pain experience.” *Id.*

35. In addition to short-term physical injuries, “more persistent injury is possible, including corneal abrasions, wheezing, and skin blisters.”⁶

36. Particularly relevant here, prolonged exposure to OC from failing to decontaminate risks a host of severe, long-term injuries. Potential eye injuries include glaucoma—which can lead to blindness—cataracts, corneal scarring, corneal epithelial defects (loss of the eye’s outer layer), irregular astigmatism (a condition where the cornea’s natural curvature becomes uneven), and decreased tear production.⁷ Potential skin injuries include severe chemical burns, severe erythema (a skin reaction characterized by significant blistering), and persistent dermatitis.⁸ Potential lung injuries include scarring, decreased lung capacity, asthma, and respiratory failure.⁹

⁶ Karen Dominguez, *How Dangerous is Pepper Spray?*, National Poison Control Center, Poison Control (Apr. 4, 2018), <https://www.poison.org/articles/how-dangerous-is-pepper-spray-201>; see Lance Brown et al., *Corneal Abrasions Associated With Pepper Spray Exposure*, 18 *Am. J. Emergency Med.* 3 271, 271-72 (2000), <https://www.sciencedirect.com/science/article/abs/pii/S0735675700901207?via%3Dihub>.

⁷ Jamie Smith, *supra* n.2; *Am. Acad. of Ophthalmology*, *supra* n.2.

⁸ Smith, *supra* n.2; Yeung & Tang, *supra* n.2.

⁹ Smith, *supra* n.2; Lenehan & Schury, *supra* n.2.

37. When OC is deployed from too close a distance, a phenomenon called “hydraulic needling” can occur. Hydraulic needling results when the OC molecules physically penetrate the tissue of the skin and eyes, causing lacerations.¹⁰

38. OC poses an especially significant risk of serious harm to those with underlying health conditions, including those “with lung conditions, such as asthma or [Chronic Obstructive Pulmonary Disease].”¹¹ Those individuals “can have more severe breathing effects” when targeted with OC. *Id.*

39. There are dozens of documented instances of people dying in custody after having been sprayed with OC, including individuals with no underlying medical conditions.¹²

40. A recent example occurred in April 2023, when a Missouri correctional officer sprayed OC on Brandon Pace at close range and in a confined

¹⁰ Anja Weber et al., *Skin laceration caused by a short distance shot from a pepper spray launcher: a case report*, 137 Int'l J. of Legal Med. 609, 609-612 (2022), <https://link.springer.com/article/10.1007/s00414-022-02936-5>; David Scott & Charles Greinsky, *Report of the Pepper Spray Committee of the Civilian Complaint Review Board*, N.Y.C. Civilian Complaint Rev. Bd., 6–8 (May 14, 1997), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/report-pepper-spray-committee-civilian-complaint-review-board>.

¹¹ Dominguez, *supra* n.6.

¹² See, e.g., Adam Lechner et al., *Ventricular Fibrillation Due to Coronary Spasm After Pepper Spray*, 44 Pacing & Clinical Electrophysiology 548, 548 (2021), <https://onlinelibrary.wiley.com/doi/abs/10.1111/pace.14146>; MF Yeung & William YM Tang, *Clinicopathological Effects of Pepper (Oleoresin Capsicum) Spray*, 21 H.K. Med. J. 542, 547 (2015), <https://www.hkmj.org/abstracts/v21n6/542.htm>; Craig Steffee, et al., *Oleoresin Capsicum (Pepper) Spray and “In-Custody Deaths,”* 16 Am. J. of Forensic Med. & Pathology 185, 185-91 (1995), https://journals.lww.com/amjforensicmedicine/abstract/1995/09000/oleoresin_capsicum_pepper_spray_and_in_custody.1.aspx; Allan Parachini, *Pepper Spray Update: More Fatalities, More Questions*, at 28-30, ACLU of Southern California (June 1995), <https://www.aclusocal.org/pepper-spray-update-more-fatalities-more-questions/>.

space.¹³ According to his family, Pace died, “screaming in pain, gasping for air, and saying

‘I can’t breathe. Help me, I can’t breathe,’ over and over.” *Id.* The wrongful death lawsuit brought by Pace’s family highlights the unique dangers OC poses in a carceral setting, where the prisoner is often trapped in a confined space without access to fresh air.

41. Delaware correctional officers sometimes place a spit mask or spit hood on a sprayed individual in response to uncontrollable drooling, runny nose, coughing, and choking caused by OC weapons. Spit masks increase the likelihood of serious health complications, including death by asphyxiation.¹⁴

42. For example, in 2022, Ladale Kennedy died at Upstate Correctional Facility in New York after he was sprayed with OC and placed in a spit mask.¹⁵

The former New York City chief medical examiner who testified in the ensuing litigation concluded: “This was a death from asphyxia caused by the spit mask.”

Id.

¹³ Katie Moore, *Son who was shackled and pepper sprayed by Missouri guards died. Mother files lawsuit*, Kan. City Star (Sep. 9, 2024), <https://www.kansascity.com/news/state/missouri/article292178065.html>.

¹⁴ See, e.g., *Iko v. Shreve*, 535 F.3d 225, 239 (4th Cir. 2008); Tanya Eiserer, *New video shows what happened after Tarrant County jailers pepper-sprayed prisoner who died*, WFAA (Sep. 8, 2024), <https://www.wfaa.com/article/news/investigations/tarrant-county-jail-deaths-video-robert-miller-pepper-spray/287-40c29235-b0b6-41c6-a8f6-e6ad6d9c20d7>; *Inmate reportedly died of heart attack after use of pepper spray, spit hood in Montreal jail*, CBC (Jan. 10, 2023), <https://www.cbc.ca/news/canada/montreal/spring-inmate-documents-1.6708752>.

¹⁵ Jan Ransom, *They, Too, Died After Beatings by Guards. No One Raised an Alarm*. N.Y. Times (Dec. 31, 2025), <https://www.nytimes.com/2025/12/31/nyregion/ny-prison-deaths-beatings-brooks-nantwi.html>.

43. Similarly, Ifeanyi Iko died after correctional officers repeatedly pepper sprayed him and placed a spit mask placed over his head.¹⁶ In holding that the correctional officers violated Iko’s clearly established Eighth Amendment rights, the Fourth Circuit noted that the officers “never changed Iko’s clothing, never removed the spit mask covering his nose and mouth, and never secured him any medical treatment for the exposure.”¹⁷

44. Because OC is so dangerous, a majority of states have banned the use of OC sprays at juvenile facilities.¹⁸

B. Sabre Red’s manufacturer requires immediate decontamination.

45. Because OC weapons are so dangerous, they come with carefully prescribed instructions for use.¹⁹

¹⁶ *Iko*, 535 F.3d at 230-33.

¹⁷ *Id.* at 241.

¹⁸ ACLU of California, *Toxic Treatment: The Abuse of Tear Gas Weapons in California Juvenile Detention*, at 4 (2019), https://www.aclusocal.org/app/uploads/2019/05/aclu_socal_toxic_treatment_report_2019.pdf (noting 35 states had banned use of OC at juvenile facilities as of 2019).

¹⁹ Law enforcement agencies and professional associations have developed detailed policies on how to deploy these weapons. Those entities, which include the Federal Bureau of Prisons, the Delaware Justice of the Peace Court, and the International Association of Chiefs of Police, mandate immediate decontamination after deploying OC on a prisoner. U.S. Dep’t of Just., Fed. Bureau of Prisons, Program Statement 5566.07, *Use of Force, Application of Restraints, and Firearms*, at 5-6 (July 17, 2024), <https://www.bop.gov/policy/progstat/5566.07.pdf>; Del. Just. Peace Ct., *Oleoresin Capsicum Spray (O.C. Spray) Policy*, at 3 (Apr. 21, 2022), <https://courts.delaware.gov/Forms/Download.aspx?id=141348>; Int’l Ass’n of Chiefs of

46. The MK-2 canister used by DOC officers is not available for consumer purchase, and so Plaintiffs do not know precisely what instructions and warnings come with it. Although Plaintiffs do not have the product insert for the MK-2 canister, they have obtained the product insert for another law-enforcement grade Sabre Red product, Sabre Red Crossfire MK-3.²⁰ Germane to this lawsuit, the MK-3 product insert instructs law enforcement officers to deploy no more than three “1/2 to 1 second bursts” across the subject’s eyes from no “less than 3 feet (1 meter) from the subject.” **Exhibit J**. The label contains a QR code providing “Subject Care and Decontamination” instructions, which is accessible only to law enforcement who have a Sabre Red online account. *Id.*

47. The MK-3 label, however, contains the following first aid instructions: “After restraining subject, move to fresh air away from contaminated area and verbally reassure subject. IMMEDIATELY request medical attention if subject has preexisting medical conditions or other medical issues. If appropriate, remove contaminated clothing. IF ON SKIN: Wash with plenty of soap and water. DO NOT rub or use creams, lotions, oils or salves. IF IN EYES: Rinse cautiously with water for several minutes. DO NOT RUB EYES! Only qualified medical personnel should remove contacts. Continue to rinse. Periodically monitor subject

Police, *Aerosol Restraint Spray Concepts & Issues*, at 5 (Feb. 2023), https://www.theiacp.org/sites/default/files/2023-02/Aerosol_Restraint_Spray_02-2023.pdf.

²⁰ The key differences between Sabre Red MK-2 Trigger Top Cone and Sabre Red Crossfire MK-3 are the size of the canister and the spray top design. Both have a 1.33% MCC, and both are only available for purchase by law enforcement officers. Plaintiffs are not aware of any difference in the chemicals contained in the different models.

until recovered. IF SYMPTOMS PERSIST: Get medical advice/attention.”

Exhibit K.

48. A publicly available Sabre Red instructional video discusses the manufacturer’s recommended four-step procedure for decontaminating correctional officers sprayed with Sabre Red due to inadvertent “secondary contamination.”²¹ First, correctional officers must flush out their eyes using fresh water “for at least 15 minutes.” *Id.* Second, correctional officers then use a specially made Sabre Decon Cleanse to wash all over one’s face, except the eyes, for 30 seconds, and then rinse. *Id.* This second step should be repeated **four** more times. *Id.* Third, each eye should then be rinsed for five minutes. *Id.* And fourth, a soothing solution should be applied all over the face. *Id.* The fourth step should be repeated if necessary. *Id.* The instructional video warns that “if you want these effects [of Sabre Red], these painful effects to go away as fast as possible, you have to follow these instructions.” *Id.*

49. As required by federal regulations, Sabre Red’s manufacturer, Security Equipment Corporation, has prepared a “Safety Data Sheet” for Sabre Red Civilian—a less potent, commercially available version of Sabre Red.

Exhibit K, at 1.²² The Safety Data Sheet outlines emergency and first aid

²¹ See Sabre Decon, *Guidelines for Proper Use*, <https://www.police1.com/police-products/less-lethal/videos/sabre-decon-guidelines-for-proper-use-9tQc7ZWQawznRwbX/> (last visited Apr. 28, 2026).

²² The Occupational Safety and Health Administration requires chemical manufacturers to create Safety Data Sheets for hazardous materials used in the workplace. 29 C.F.R. §§ 1910.1200(a)(1)-(2), 1910.1200(g)(1). The purpose of Safety Data Sheets “is to convey the hazard information to . . . downstream customers.” Dep’t of Labor, Occupational Safety &

procedures for those exposed to Sabre Red Civilian. *Id.* at 2. The initial steps are as follows: “Remove victim from contaminated area and if appropriate [sic], remove contaminated clothing. Provide fresh air, irrigate with copious amounts of cool water. **Seek medical attention immediately if you have any pre-existing medical conditions or suffer from any adverse effects.**” *Id.*

50. The Safety Data Sheet provides further instructions for treating the victim’s lungs, eyes, and skin. Exhibit K at 2. First, if “breathing is difficult,” the victim must receive “immediate medical attention.” *Id.* Second, contact lenses must be carefully removed and discarded. *Id.* The victim’s eyes must then be flushed “with cool water for 15 minutes, or until relieved.” *Id.* And third, the victim’s skin must be cleaned “15 to 20 minutes with soap and cold water, repeat[ed] as necessary.” If the victim ingests Sabre Red Civilian, a responder must “[i]mmediately call for medical help.” *Id.*

51. Consistent with the Safety Data Sheet, an insert provided with the purchase of commercially available Sabre Red Pepper Spray provides clear decontamination instructions. Exhibit K at 2. “In case of skin contact,” the user must: “Remove contaminated clothing immediately”; and “FLUSH skin 15-20 minutes with soap and cold water, repeat as necessary. *Id.* “In case of eye contact,” the user must: “Carefully remove & discard contact lenses”; “Flush eyes with cold water for 15 minutes”; and “Get prompt medical attention.” *Id.* (emphasis added).

Health Admin., *Hazard Communication*, <https://www.osha.gov/hazcom> (last visited Apr. 28, 2026).

**DOC ROUNTELY FAILS TO COMPLY WITH ITS OWN USE OF FORCE
POLICY AND TRAINING MANDATES.**

52. DOC has adopted guidelines for the proper deployment and decontamination of OC spray. Delaware correctional officers, however, do not follow those procedures.

A. DOC trains correctional officers how to decontaminate individuals exposed to OC weapons.

53. All DOC employees must abide by the Department's Use of Force Policy, which is publicly available on the Department's website and attached as **Exhibit L**.²³

54. Under DOC's Use of Force policy, any use of force must be reasonable under the circumstances and deployed only when no other reasonable alternative is available. Exhibit L, at 2. When possible, DOC staff should deescalate a situation or otherwise prevent the need to use force. *Id.* Additionally, where circumstances permit, an individual's underlying health conditions should be taken into account before force is used against that individual. *Id.* Use of force may never be used in retaliation or as a disciplinary measure. *Id.*

55. According to dozens of sworn depositions²⁴ in the *Davis* and *Flores* cases, during a 12-week training course that every Delaware correctional officer

²³ Del. Dep't of Corr., *Policy No. 8.30, Use of Force* (Jan. 15, 2021), https://doc.delaware.gov/assets/documents/policies/policy_8-30.pdf.

²⁴ DOC designated the vast majority of documents—and all deposition transcripts—in the *Davis* and *Flores* cases as AEO. DOC removed the AEO from some documents and filed them on the public docket in those cases. The now-public documents that Plaintiffs reference will be attached to this Verified Complaint. At the Court's request, Plaintiffs will provide the court with copies of AEO materials for *in camera* review if DOC continues to assert that such records must be treated as AEO.

must attend, DOC trains correctional officers extensively on the use of force on prisoners generally, and the use of OC specifically.

56. DOC uses a PowerPoint presentation titled “OC Aerosols” to instruct correctional officers about the effects of OC, as well as DOC’s policies regarding proper deployment and decontamination of sprayed individuals. Exhibit A, at DOC_SCI_0041428. Delaware issues all correctional officers the MK-2 OC canister to carry on their duty belts during shifts. Exhibit A, DOC_SCI_0041439.

57. The OC Aerosol training presentation explains that correctional officers must “use OC in accordance with the Department’s Use of Force” policy. Exhibit A, at DOC_SCI_0041429 (capitalization altered).

58. The OC Aerosol presentation outlines two additional requirements when deploying OC. First, correctional officers must maintain a distance of ***at least three feet*** from the target individual. Exhibit A, at DOC_SCI_0041441-43. A distance closer than three feet may cause “Hydraulic Needling (Can cause skin penetration).” *Id.* Second, OC must be used in “1 to 2 one second bursts” rather than a continuous stream. Exhibit A, at DOC_SCI_0041446. Correctional officers should “evaluate” before deploying further force, because a short burst of spray will likely gain the individual’s compliance. *Id.*

59. The OC Aerosols presentation also instructs correctional officers to “completely” decontaminate individuals exposed to OC. The following presentation slide underscores that requirement using bolded, all-caps text—accented with a red skull and crossbones.



DECONTAMINATION OF INDIVIDUALS

DO NOT



**LEAVE A SUSPECT SPRAYED
UNATTENDED UNTIL COMPLETELY
DECONTAMINATED!**

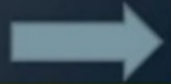


Exhibit A, at DOC_SCI_0041455.

60. The presentation materials then explain DOC's decontamination procedure. Correctional officers must decontaminate sprayed individuals, beginning with removing the individual from the area where he was sprayed, establishing communication with the sprayed individual, and exposing the sprayed person to fresh air. Exhibit A, at DOC_SCI_0041455. "Any pre-existing medical conditions, such as asthma, respiratory, or eye injuries, should be

determined before decontamination begins.” *Id.* Additionally, contact lenses should be carefully removed. *Id.*

61. After those initial steps, significant amounts of water must be used to flush the sprayed individual’s eyes and skin. Exhibit A, at DOC_SCI_0041455. Next, “wet paper towel followed by a dry paper towel” should be used to remove spray from the skin. *Id.* The decontamination process should be completed “numerous times.” *Id.*

62. The correctional officer must also ensure that the sprayed individual is “seen by medical.” Exhibit A, at DOC_SCI_0041446.

63. The training materials further instruct officers that “any individuals not showing improvement should be monitored closely to ensure recovery and medical assistance should be sought after 1 hour.” Exhibit A, at DOC_SCI_0041455.

64. The training materials remind the instructor to ensure that the trainees understand the decontamination procedures and to administer a written test on the training material, which requires a score of 70% or higher required to pass. Exhibit A, at DOC_SCI_0041456.

65. Dozens of correctional officers and officials have testified under oath at depositions in the *Davis* and *Flores* cases that Delaware correctional officers must periodically attend refresher trainings, including trainings on use of force and OC weapons.

B. Delaware correctional officers used OC weapons against the named Plaintiffs without decontaminating them.

66. Despite DOC’s policy and the training Delaware correctional officers receive, Delaware correctional officers routinely refuse and fail to decontaminate prisoners after using OC weapons against them. The named Plaintiffs—and countless others—have needlessly suffered for hours, days, and even weeks due to DOC’s cruel conduct. Many continue to endure long-lasting side effects from their ill treatment.

i. Dewitt Johnson

67. Dewitt Johnson is currently incarcerated at Howard Young. Johnson Aff. ¶ 4. At all times relevant to this case, Johnson was incarcerated at Howard Young. Johnson Aff. ¶ 4.

68. Johnson has asthma and uses an albuterol inhaler daily. Johnson Aff. ¶ 6.

69. The first of Johnson’s Sabre Red incidents occurred in 2022. Johnson Aff. ¶ 7. Johnson was in his cell when two correctional officers entered to perform a “shakedown.” Johnson Aff. ¶ 7. While Johnson was complying with the officer’s orders, they instructed Johnson to “hurry up.” Johnson Aff. ¶ 7.

70. Before Johnson could comply, a correctional officer sprayed him without warning from two feet away. Johnson Aff. ¶ 8. The officer handcuffed Johnson and escorted him to solitary confinement. Johnson Aff. ¶ 8.

71. Johnson was never decontaminated. Johnson Aff. ¶ 9. Johnson was not permitted to shower for at least one full day after he was sprayed. Johnson Aff. ¶ 9.

72. The second incident occurred on October 22, 2025. Johnson Aff. ¶ 10. Johnson was leaving the shower when he was assaulted by another prisoner whom he did not know. Johnson Aff. ¶ 10. Johnson tried to defend himself. Johnson Aff. ¶ 10.

73. Officer McGuire instructed the two men to stop fighting. Johnson Aff. ¶ 11. Before Johnson could comply, Officer McGuire deployed his Sabre Red on Johnson at close range. Johnson Aff. ¶ 11. Rather than deploying the spray in bursts, Officer McGuire sprayed Johnson continuously until the canister was empty. Johnson Aff. ¶ 11.

74. Johnson's face, hair, and shoulders were doused with the chemical. Johnson Aff. ¶ 12. Johnson's skin, which turned red, felt like it was on fire. Johnson Aff. ¶ 12.

75. Lieutenant Kreutz then arrived, accompanied by around ten prison officials—a mix of members of the Quick Response Team (“QRT”)²⁵ and regular correctional officers. Johnson Aff. ¶ 13. Without provocation, and after Johnson was already restrained, an officer sprayed him again, from two-to-four feet away. Johnson Aff. ¶ 14. Because his eyesight was blurred and burning from the first spray, Johnson could not identify who sprayed him the second time. Johnson Aff. ¶ 14.

²⁵ According to dozens of sworn depositions in the *Davis* and *Flores* cases, the QRT is a group of correctional officers drawn from a single prison that is trained to respond to disturbances and conduct planned uses of force.

76. Johnson was put into an interview room, without any decontamination, as his skin continued to burn from the chemical. Johnson Aff. ¶ 15. He was so drenched in Sabre Red that his whole shirt was orange. Johnson Aff. ¶ 15.

77. While isolated in the interview room, Johnson tried to shout through the door that he has asthma and that he could not breathe. Johnson Aff. ¶ 16. Officers responded that he would have to wait. Johnson Aff. ¶ 16. Because the interview rooms have one-way glass, he was not sure which officers responded to him. Johnson Aff. ¶ 16.

78. Johnson was then transported to solitary confinement. Johnson Aff. ¶ 17. Before being placed there, a nurse took his vitals but did not decontaminate him. Johnson Aff. ¶ 17. As Johnson struggled to breathe, he asked the nurse for his inhaler. Johnson Aff. ¶ 17. The nurse denied Johnson access to his inhaler. Johnson Aff. ¶ 17.

79. Johnson was not allowed to shower until two days after being sprayed, despite never having been decontaminated nor having any way to decontaminate himself. Johnson Aff. ¶ 19.

80. Johnson remained in solitary for eleven days. Johnson Aff. ¶ 18. His face burned, his throat burned when he drank water, and he could not sleep. Johnson Aff. ¶ 20. Throughout his time in solitary, he repeatedly asked for his inhaler and medical attention. Johnson Aff. ¶ 20. He was not given his inhaler while in solitary confinement. Johnson Aff. ¶ 18. For eleven days, he struggled to breathe. Johnson Aff. ¶ 18.

81. The third incident occurred on January 24, 2026, around 10:30 PM. Johnson Aff. ¶ 22. Lieutenant Kline entered Johnson's pod²⁶ with approximately ten members of the QRT. Johnson Aff. ¶ 22. Lieutenant Kline informed Johnson that he was being transported to solitary confinement. Johnson Aff. ¶ 22.

82. When Johnson asked why he was being sent to solitary, he was told that he had closed the door of his cell. Johnson Aff. ¶ 23. Then, without provocation or warning, Lieutenant Kline deployed Sabre Red spray on Johnson's face and body from four-to-six feet away. Johnson Aff. ¶ 23. The Sabre Red blurred Johnson's eyesight, which made it difficult for Johnson to see and caused an intense burning feeling on his skin and eyes. Johnson Aff. ¶ 24. He was handcuffed behind his back, his feet were shackled, and he was transported to solitary confinement. Johnson Aff. ¶ 24.

83. Once in solitary confinement, Lieutenant Stewart approached Johnson. Johnson Aff. ¶ 26. He forced Johnson to his knees while Johnson's hands were cuffed behind his back. Johnson Aff. ¶ 26. Lieutenant Stewart was armed with a Sabre Red pellet gun, which he often carries around during transports to solitary confinement. Johnson Aff. ¶ 26.

84. Lieutenant Stewart then shot Johnson five times from behind, four times on his shoulder area, and once in the back of his head. Johnson Aff. ¶ 27. This occurred less than 30 minutes after Johnson was first sprayed in the face with the canister of Sabre Red. Johnson Aff. ¶ 27.

²⁶ "Pod" refers to a prisoner's specific portion of a housing unit.

85. Being shot by the Sabre Red pellet gun felt like being shot by paintballs. Johnson Aff. ¶ 28. But instead of paint, the many rounds contained condensed Sabre Red powder that burst and dispersed across his skin. Johnson Aff. ¶ 28. The powder caused a stinging and burning sensation, and quickly spread to his nose and eyes, exacerbating his breathing difficulties. Johnson Aff. ¶ 28.

86. The officers left Johnson alone in solitary confinement, where he remained for 48 hours. Johnson Aff. ¶ 29. He was not permitted to shower to remove the chemical from his skin for the duration of his confinement there. Johnson Aff. ¶ 29.

87. Johnson was briefly seen by a nurse who took his vitals, but the nurse did not decontaminate Johnson or provide him with his inhaler, which he requested because he was struggling to breathe. Johnson Aff. ¶ 25. Johnson was never decontaminated and was not provided with his inhaler. Johnson Aff. ¶¶ 31, 34.

88. After the 48 hours in solitary, Johnson was returned to his cell, with no disciplinary write up. Johnson Aff. ¶ 30.

89. Johnson filed a grievance, but the response indicated the grievance was unprocessed because it pertained to a confidential matter involving staff members. Johnson Aff. ¶ 32.

90. Because of repeated, prolonged exposure to Sabre Red without subsequent decontamination, Johnson needlessly suffered extreme and persistent pain over the course of multiple days.

91. The failure to decontaminate Johnson violated DOC's training instructions.

92. Because Johnson was sprayed arbitrarily and without justification, Johnson fears that he could be subjected to Sabre Red or other OC weapons at any time, without any reason. Johnson Aff. ¶ 35.

ii. Zakee Lloyd

93. Zakee Lloyd is currently incarcerated at Howard Young. Lloyd Aff. ¶ 4. Lloyd was previously incarcerated at James T. Vaughn. Lloyd Aff. ¶ 4. At all times relevant to this case, Lloyd was incarcerated at James T. Vaughn. Lloyd Aff. ¶ 4.

94. Lloyd had a call scheduled with his lawyer for March 4, 2024, at around 9:30 AM. Lloyd Aff. ¶ 5. One week before this meeting, Lloyd wrote to a Lieutenant to notify him that the meeting was scheduled. Lloyd Aff. ¶ 5. The Lieutenant responded that Lloyd would be permitted to take the meeting. Lloyd Aff. ¶ 5.

95. Beginning at 8:00 AM on March 4, Lloyd notified passing correctional officers that he had a legal meeting at 9:30 AM. Lloyd Aff. ¶ 6. They ignored him. Lloyd Aff. ¶ 6. Lloyd was not permitted to attend. Lloyd Aff. ¶ 7. The meeting time came and went. Lloyd Aff. ¶ 7.

96. At around 9:50 or 10:00 AM, Lloyd placed a towel over the window of his cell, believing this would get the attention of the Lieutenant. Lloyd Aff. ¶ 8. Instead, Officer Moore and another correctional officer approached Lloyd's cell, cracked the door open, and instructed Lloyd to remove the towel. Lloyd Aff. ¶ 8.

97. Lloyd approached the opening in the door to speak with the officers. Lloyd Aff. ¶ 9. He told them he needed to speak with the Lieutenant, but the officers refused. Lloyd Aff. ¶ 9.

98. Officer Moore then lined up his Sabre Red canister with the opening in the door—approximately one foot from Lloyd’s face—and deployed the spray. Lloyd Aff. ¶ 10. Officer Moore then shut the door, locking Lloyd in the enclosed cell, now filled with OC spray. Lloyd Aff. ¶ 10. Officer Moore issued no warnings beforehand. Lloyd Aff. ¶ 10.

99. The chemical filled Lloyd’s lungs and made his skin feel like it was on fire. Lloyd Aff. ¶ 11. He could barely breathe. Lloyd Aff. ¶ 11. Lloyd pleaded from inside the cell, “Cuff me up and get me out of here because I can’t breathe.” Lloyd Aff. ¶ 12. He was left alone in the cell for about ten minutes, struggling to breathe. Lloyd Aff. ¶ 12.

100. At around 10:25 AM, Officer Moore, Officer Downs, and Corporal Parker entered the cell, handcuffed Lloyd, and removed him from the cell. Lloyd Aff. ¶ 13. Lloyd walked with the officers for three or four feet before he collapsed, as he was unable to breathe. Lloyd Aff. ¶ 13.

101. The officers called a code,²⁷ which summoned a nurse. Lloyd Aff. ¶ 14. The nurse checked Lloyd’s vitals but did not decontaminate him or administer any

²⁷ According to sworn depositions and documents produced by the DOC in the *Davis* and *Flores* cases, correctional officers can notify others in the prison about various issue by “calling a code” over the prison’s internal notification system. There are more than a dozen codes, but the codes most frequently called by officers are medical emergency, assault on staff, prisoner disobeying an order, and fights between prisoners.

other medical care before the officers began transporting Lloyd again. Lloyd Aff. ¶ 14.

102. The officers carried Lloyd to the barbershop and placed him on the ground. Lloyd Aff. ¶ 15. For the next 30 to 45 minutes, Lloyd lay on the floor, struggling to breathe as he heard correctional officers taunt and mock him for choking on Sabre Red he had swallowed. Lloyd Aff. ¶ 15.

103. The officers then transported Lloyd back to his cell, still slick with Sabre Red. Lloyd Aff. ¶ 16. They passed the showers on the way to Lloyd's cell. Lloyd Aff. ¶ 16. Lloyd asked the officers to use the shower because his skin was burning. Lloyd Aff. ¶ 16. They refused, and put him back in his cell, which was still contaminated with Sabre Red. Lloyd Aff. ¶ 16.

104. Later that night or the next day, Lloyd was taken to the naked room. Lloyd Aff. ¶ 17. The naked room is a cell that is supposed to be inhabited only by those experiencing suicidal or homicidal ideation. Lloyd Aff. ¶ 17. Lloyd was experiencing neither, and he was never told why he was kept there. Lloyd Aff. ¶ 17.

105. Lloyd was not permitted to shower for at least three more days. Lloyd Aff. ¶ 18. Meanwhile, the Sabre Red burned Lloyd's skin, because he was not decontaminated. Lloyd Aff. ¶¶ 18, 28. Sweat or water reactivated the chemical and dispersed it across his body. Lloyd Aff. ¶ 18. Lloyd was kept in the naked room for seven days, leaving only when they needed the cell for someone else. Lloyd Aff. ¶ 19.

106. About one or two months after the first incident, Sergeant Adam Moore came to Lloyd's cell in solitary confinement. Lloyd Aff. ¶ 21. He took Lloyd to the showers for a shakedown,²⁸ and did not tell Lloyd why. Lloyd Aff. ¶ 21.

107. In the showers, Sergeant Moore made Lloyd strip off all his clothes and demanded that he spread his buttocks and then put his hands in his mouth. Lloyd Aff. ¶ 22. Lloyd stripped naked and spread his buttocks. Lloyd Aff. ¶ 22. But he refused to put his hands in his mouth, as he had just used his hands to spread his buttocks. Lloyd Aff. ¶ 22.

108. Without warning, Sergeant Moore sprayed Sabre Red spray on Lloyd. Lloyd Aff. ¶ 23. He sprayed Lloyd's face, and when Lloyd turned, Sergeant Moore sprayed the back of Lloyd's head and the rest of his naked body. Lloyd Aff. ¶ 23. Sergeant Moore emptied the entire canister on Lloyd from a distance of one-to-two feet. Lloyd Aff. ¶ 24.

109. Sergeant Moore directed Lloyd to run his hands through his mouth while they were covered in Sabre Red. Lloyd Aff. ¶ 25. Sergeant Moore threatened, "if you don't do it, I'm going to spray you." Lloyd Aff. ¶ 25. Lloyd complied because he feared being sprayed again. Lloyd Aff. ¶ 25.

110. Lloyd was not brought to medical. Lloyd Aff. ¶ 26. He was instead taken to solitary confinement. Lloyd Aff. ¶ 26.

²⁸ According to the DOC Policy and Procedures Manual, a shakedown occurs when a correctional officer (or officers) searches the person, cell, and/or personal effects of a prisoner. *See also* Del. Dep't of Corr., *Policy No. 8.32, Contraband: Search, Seizure and Disposition* (Mar. 31, 2024), at 3, 6, https://doc.delaware.gov/assets/documents/policies/policy_8-32.pdf (referencing "shakedowns").

111. At no point did any DOC officer or employee decontaminate him. Lloyd Aff. ¶ 28. He was not allowed to shower for at least a day. Lloyd Aff. ¶ 27.

112. Lloyd suffered painful physical injuries. Lloyd Aff. ¶ 29. His eyes and face were badly burned, distorting his vision. Lloyd Aff. ¶ 29. The burning sensation on his body and genitals, which lasted three-to-four days, was excruciating. Lloyd Aff. ¶¶ 29-30. The Sabre Red remained in his hair for about a week after being sprayed. Lloyd Aff. ¶ 30. The chemical reactivated upon contact with water, so he continued to feel the burning sensation of the spray during showers. Lloyd Aff. ¶ 30.

113. Lloyd tried to file a grievance but was told that he would have to contact DOC investigators first. Lloyd Aff. ¶ 31. He contacted DOC investigators, but he never received a response. Lloyd Aff. ¶ 31.

114. Because of repeated, prolonged exposure to Sabre Red without subsequent decontamination, Lloyd needlessly suffered extreme and persistent pain over the course of multiple days.

115. The failure to decontaminate Lloyd violated DOC's training instructions. Because Lloyd was sprayed arbitrarily and without justification, Lloyd fears that he could be subjected to Sabre Red at any time, without any reason. Lloyd Aff. ¶ 32.

iii. Dennis Williams

116. Dennis Williams is incarcerated at Howard Young. Williams Aff. ¶ 4. At all times relevant to this case, Williams was incarcerated at Howard Young. Williams Aff. ¶ 4.

117. Williams has asthma and suffers from Crohn's disease. Williams Aff. ¶ 5.

118. On December 12, 2025, around 11:00 AM, Williams was on the phone with his mom when he was approached by a correctional officer. Williams Aff. ¶¶ 6, 8. The officer ordered Williams to hang up the phone because the food cart was approaching. Williams Aff. ¶ 6.

119. Prison policy provides that correctional officers may order prisoners to "lock in" when the food cart comes. Williams Aff. ¶ 7. But if a prisoner is already on the phone, the prisoner is allowed to finish his call. Williams Aff. ¶ 7.

120. Williams had received specific permission from another correctional officer to stay on the phone with his mom when the food cart arrived. Williams Aff. ¶ 8.

121. Williams requested to finish his phone call pursuant to facility policy. Williams Aff. ¶ 9. Another correctional officer, Officer Bush, then approached and said, "Y'all gotta get off the f***ing phone. I'm not for this s**t today, hang the f***ing phone up." Williams Aff. ¶ 10.

122. At this time, Williams requested to speak with a superior officer. Williams Aff. ¶ 11. Officer Bush told Williams, "I'm not calling anybody," and demanded Williams hang up the phone. Williams Aff. ¶ 11.

123. When Williams did not hang up the phone, Officer Bush picked Williams up and bear-hug carried him to his cell, approximately 20 or 30 feet from the phone. Williams Aff. ¶ 12. Williams did not resist being carried to his cell but laughed as he found it odd that the officer was carrying him. Williams Aff. ¶ 12.

124. As Officer Bush pushed Williams into his cell, Officer Bush asked, “Y’all think I’m f***ing playing?” Williams Aff. ¶ 13. He then punched Williams in the face, over his left eye. Williams Aff. ¶ 13. Williams tried to defend himself, and a struggle ensued. Williams Aff. ¶ 14. Officer Bush said, “call a code” before punching Williams again. Williams Aff. ¶ 14.

125. Captain McCarl approached and instructed Williams to “stop fighting” and “let him go.” Williams Aff. ¶ 15. Williams responded by putting his hands in the air and said he was not holding onto Officer Bush. Williams Aff. ¶ 15.

126. Captain McCarl punched Williams on the right side of his face, then backed up and pulled out her Sabre Red canister. Williams Aff. ¶ 16. She sprayed Williams with Sabre Red about two inches away from his face. Williams Aff. ¶ 17. The Sabre Red burned Williams’s face, and he could no longer see. Williams Aff. ¶ 17.

127. Captain McCarl again instructed Williams again to “Let him go.” Williams Aff. ¶ 18. Williams told her once more that he was not holding on to Officer Bush, who was pulling Williams’s hair and punching him. Williams Aff. ¶ 18.

128. More officers arrived. Williams Aff. ¶ 19. Williams couldn’t tell who because he could not see, and because he was quickly thrown face-down onto the floor. Williams Aff. ¶ 19. Williams felt knees on his back and blows to the back of his head. Williams Aff. ¶ 19.

129. He then told the officers, “I have asthma,” “I need my inhaler,” and “I can’t breathe.” Williams Aff. ¶ 20. Captain McCarl told him to “shut up” and that he would “be alright.” Williams Aff. ¶ 20.

130. Williams was then taken to the interview room. Williams Aff. ¶ 21. He was seated with his hands cuffed behind his back. Williams Aff. ¶ 21. Williams was left alone in the interview room, doused in Sabre Red and without water, for about 15 minutes. Williams Aff. ¶ 21.

131. Williams was then transported to solitary confinement. Williams Aff. ¶ 22. In the hallway just outside, he spoke with a nurse. Williams Aff. ¶ 22. Williams was eventually allowed access to his inhaler. Williams Aff. ¶ 23. But he was given two puffs before it was taken away from him. Williams Aff. ¶ 23.

132. In solitary confinement, the correctional officers took Williams’s clothes and instructed him to run his hands through his mouth and over his genitals and buttocks while his hands were covered in Sabre Red. Williams Aff. ¶¶ 25-26. After complying with the officers’ command, his mouth, genitals, and all areas contacted by the chemical were left burning. Williams Aff. ¶ 26.

133. His cell in solitary confinement contained a sink and a toilet. Williams Aff. ¶ 27. There were no towels or shampoo. Williams Aff. ¶ 27. He tried to use water to remove the Sabre Red but stopped when he realized the water was reactivating the chemical, causing it to burn more. Williams Aff. ¶ 27.

134. During his first 24 hours in solitary confinement, Williams told correctional officers during cell checks that he could not breathe and needed a nebulizer treatment for his asthma. Williams Aff. ¶ 28. He did not receive the

nebulizer treatment but was allowed to have his inhaler after a few hours.

Williams Aff. ¶ 28.

135. At no time was Williams decontaminated. Williams Aff. ¶ 35.

136. Williams was not permitted to shower for at least 24 hours after being placed in solitary confinement. Williams Aff. ¶ 30.

137. When Williams finally received nebulizer treatment, it was December 15, 2025. Williams Aff. ¶ 31. He had been sprayed three days earlier. Williams Aff. ¶ 31.

138. Williams had a disciplinary hearing on December 17, 2025. Williams Aff. ¶ 33. The officers involved failed to write incident reports, as required by DOC policy. Williams Aff. ¶ 33. They claimed that Williams had already completed his phone call and was staying on the phone to irritate them. Williams Aff. ¶ 33.

139. Williams still struggles with breathing, his vision is blurred, and he has persistent headaches. Williams Aff. ¶ 36.

140. Williams has dreadlocks. Williams Aff. ¶ 32. Every time he washes his hair or sweats while sleeping, he feels a painful burning sensation, as the Sabre Red reactivates. Williams Aff. ¶ 32.

141. Williams was eventually sent to an eye doctor because he was sprayed at point blank range in his eyes. Williams Aff. ¶ 37. William's vision continues to be impaired. Williams Aff. ¶ 37.

142. Williams filed multiple requests for medical treatment for his breathing issues and injuries. Williams Aff. ¶ 38. Those requests were denied. Williams Aff. ¶ 38.

143. Williams also filed grievances against the officers. Williams Aff. ¶ 38. Those grievances were likewise denied, with a response indicating that his allegations could not be addressed by the grievance system. Williams Aff. ¶ 39.

144. Because of prolonged exposure to Sabre Red without subsequent decontamination, Williams needlessly suffered extreme and persistent pain for at least 24 hours. Williams Aff. ¶¶ 30, 36.

145. The failure to decontaminate Williams violated DOC's training instructions.

146. Because Williams was sprayed arbitrarily and without justification, Williams fears that he could be subjected to Sabre Red at any time, without any reason. Williams Aff. ¶ 40.

iv. Devon Young

147. Devon Young is incarcerated at James T. Vaughn. Young Aff. ¶ 4. At all relevant times, Young was incarcerated at SCI. Young Aff. ¶ 4.

148. Young suffers from asthma. Young Aff. ¶ 5.

149. On January 30, 2026, around 9:00 PM, Young was in the common area when a fight between two other prisoners began. Young Aff. ¶ 6. Two correctional officers, including Officer Jones, told the men to "break it up." Young Aff. ¶ 7. A code was called, and other officers arrived, including Officer Clendenning. Young Aff. ¶¶ 7-8. prisoner

150. Officer Clendenning started pushing prisoner Jhasir George, whom he eventually handcuffed. Young Aff. ¶¶ 8-9. Another prisoner, Ty'mire Davis,

objected to the rough handling of Jhasir George. Young Aff. ¶ 9. Officer Lynch then attempted to handcuff Davis, who resisted. Young Aff. ¶ 10.

151. Attempting to diffuse the situation, another prisoner named Darrell Copeland told Davis that he should calm down and comply. Young Aff. ¶ 10. Lynch turned to Copeland, “you cuff up, too.” Young Aff. ¶ 10. Near the top of the staircase, Officer Lynch started shoving Copeland, who fell down the steps. Young Aff. ¶ 11.

152. The prisoners on that tier, including Young, left their bunks and went to the rail to see what happened. Young Aff. ¶ 12. When Young looked toward the door on his tier, he saw around ten to twenty officers enter, including Officer Isaac Mitchell. Young Aff. ¶ 14. As Young started to return to his cell, Officer Mitchell sprayed him with Sabre Red, without provocation or warning. Young Aff. ¶ 15. Officer Mitchell emptied a whole canister of Sabre Red on Young from about two to three feet away. Young Aff. ¶ 15.

153. Young was sprayed inside his ear and on his face. Young Aff. ¶ 16. He was handcuffed and forced face-first to the ground. Young Aff. ¶ 16. Officer Mitchell then punched Young multiple times, and after the second or third blow to his head, Young lost consciousness. Young Aff. ¶ 16.

154. Young awoke in the hallway outside the tier. Young Aff. ¶ 17. He was unable to see, and his eyes were burning from Sabre Red. Young Aff. ¶ 17. Young struggled to breathe, causing him to have a panic attack. Young Aff. ¶ 17. Copeland was there too, and he had also been sprayed with Sabre Red. Young Aff. ¶ 17.

155. Officer Mitchell stood over Young, who was disoriented and in pain. Young Aff. ¶ 18. Officer Mitchell then wrenched Young's arm, dislocating Young's shoulder. Young Aff. ¶ 18. Young was brought to receiving,²⁹ where he asked the officers why he was punched. Young Aff. ¶ 18. They claimed that he was resisting. Young Aff. ¶ 18.

156. In receiving, Young asked for his inhaler, which he uses daily for his asthma. Young Aff. ¶ 19. His request was denied. Young Aff. ¶ 19. Young was kept in receiving for about an hour. Young Aff. ¶ 19. When he asked for something to help remove the Sabre Red from his skin, he was told by an officer that he was "going to sit in this room and suffer." Young Aff. ¶ 19.

157. The officers took pictures of Young, then took him to the showers to be strip searched. Young Aff. ¶ 20. He was told to hold his mouth open and to spread his buttocks, both of which burned when his skin came into contact with the Sabre Red still on his hands. Young Aff. ¶ 20.

158. Young was never decontaminated, and he was not permitted to use the shower. Young Aff. ¶¶ 21, 25.

159. Young was instead taken to the nursing unit. Young Aff. ¶ 21. The nurse took his vitals but did not decontaminate him. Young Aff. ¶ 21. He was given only Ibuprofen for a dislocated shoulder. Young Aff. ¶ 21. Officers then took

²⁹ The receiving area is the room in the prison where prisoners are taken upon arrival to be questioned, photographed, fingerprinted, and strip-searched before correctional officers take them to their housing unit.

Young to solitary confinement, where he was kept for four-to-five hours, still bathed in Sabre Red. Young Aff. ¶ 21.

160. Around 4 AM, an officer with a gun came in and instructed Young to “walk straight to [the] wall, don’t turn around or move or you will be impacted.” Young Aff. ¶ 22. Young complied. He was then handcuffed and taken to a van, which transferred him and others to James T. Vaughn, where he now resides. Young Aff. ¶ 22.

161. Young was not allowed to shower for at least a day after the incident, even though no one decontaminated him after he was sprayed, and he was not able to properly decontaminate himself. Young Aff. ¶ 24.

162. During the incident, Young was scared for his life. Young Aff. ¶ 23. He still has nightmares about the event, issues with sleeping, anxiety, and trouble eating due to loss of appetite. Young Aff. ¶ 23.

163. Young filed a grievance but was told that correctional officers “don’t deal with” that sort of issue. Young Aff. ¶ 26.

164. Because of prolonged exposure to Sabre Red without subsequent decontamination, Young needlessly suffered extreme and persistent pain for at least 24 hours. Young Aff. ¶¶ 17, 21.

165. The failure to decontaminate Young violated DOC’s training instructions.

166. Because Young was sprayed arbitrarily and without justification, Young fears that he could be subjected to Sabre Red at any time, without any reason. Young Aff. ¶ 27.

v. Jyaire Henry

167. Jyaire Henry is incarcerated at Howard Young. Henry Aff. ¶ 4. At all times relevant to this case, Henry was incarcerated at Howard Young. Henry Aff. ¶ 4.

168. On October 3, 2025, Henry asked to go to the infirmary to speak with a mental health professional. Henry Aff. ¶ 5. Lieutenant Kreutz denied his request, claiming that Henry was lying about his mental health issues. Henry Aff. ¶ 5.

169. Henry again requested a visit to the infirmary. Henry Aff. ¶ 6. In response, Lieutenant Kreutz told Henry that he could not see mental health, but said, “we’re going to make you go in there,” gesturing to a Psychiatric Close Observation (“PCO”) cell. Henry Aff. ¶ 6. Lieutenant Kreutz then instructed correctional officers to take Henry into the cell. Henry Aff. ¶ 6.

170. Multiple officers (including Lieutenant Kreutz and Officer Sweeney) handcuffed Henry behind his back. Henry Aff. ¶ 7. Henry fell to the ground while the officers dragged him to PCO. Henry Aff. ¶ 7.

171. While lying on the ground with his hands cuffed behind his back, correctional officers sprayed Henry with Sabre Red, without warning, from less than one foot away. Henry Aff. ¶ 8. Henry had made no threats or threatening gestures before he was sprayed. Henry Aff. ¶ 8.

172. The Sabre Red felt like fire on Henry’s skin. Henry Aff. ¶ 9. He could not breathe and could not open his eyes without feeling stinging pain. Henry Aff. ¶ 9.

173. The officers then transported Henry to his cell, where he attempted to clean off the Sabre Red using his shirt and water from the sink. Henry Aff. ¶ 10. His attempts to decontaminate himself were unsuccessful because the water reactivated the burning sensation of the Sabre Red. Henry Aff. ¶ 10.

174. Henry was never decontaminated. Henry Aff. ¶ 12.

175. Correctional officers did not permit Henry to shower for at least a full day. Henry Aff. ¶ 11. Doused in Sabre Red, his skin continued to feel as if it were burning. Henry Aff. ¶ 11.

176. Henry filed a grievance on October 4, 2025, which was not answered for multiple months. Henry Aff. ¶ 13. The response he eventually received was just a sheet of paper stating a case number with no substantive reply. Henry Aff. ¶ 13.

177. Because of prolonged exposure to Sabre Red without subsequent decontamination, Henry needlessly suffered extreme and persistent pain for at least 24 hours. Henry Aff. ¶¶ 8, 11.

178. The failure to decontaminate Henry violated DOC's training instructions.

179. Because Henry was sprayed arbitrarily and without justification, Henry fears that he could be subjected to Sabre Red at any time, without any reason. Henry Aff. ¶ 14.

vi. Isaiah Harber

180. Isaiah Harber is currently incarcerated at Howard Young. Harber Aff. ¶ 4. At all times relevant to this case, Harber was incarcerated at Howard Young. Harber Aff. ¶ 4.

181. On December 12, 2025, Sergeant Hackett and Officer Sall attempted to move Harber to a new pod. Harber Aff. ¶ 5. Harber had a contentious history with some of the other prisoners in the new pod; he feared he would be assaulted there and did not want to go. Harber Aff. ¶ 5.

182. As Sergeant Hackett and Officer Sall transported Harber, he resisted, saying, “you’re trying to put me in a pod where I’m gonna be jumped.” Harber Aff. ¶ 6. The officers backed Harber into a corner, and Sergeant Hackett pulled out a canister of Sabre Red. Harber Aff. ¶ 7.

183. Sergeant Hackett then sprayed Harber in the face, from about three feet away. Harber Aff. ¶ 8. In pain, Harber tried to run, but he was apprehended by Sergeant Hackett and Officer Sall. Harber Aff. ¶ 9. A code was called, which summoned other correctional officers to the scene. Harber Aff. ¶ 10.

184. At this point, Harber’s eyes were swollen shut from the Sabre Red. Harber Aff. ¶ 11. Officers whom Harber could not identify tackled him to the ground, shackled his feet, and cuffed his hands. Harber Aff. ¶ 12.

185. Harber was transported to a small room (alcove 1D) where he was left alone for approximately 20-25 minutes. Harber Aff. ¶ 13. Eventually, Lieutenant Kreutz entered and instructed Harber to sit. Harber Aff. ¶ 13. Because Harber’s face was covered with Sabre Red, he responded, “I can’t sit down, I can’t see where I am.” Harber Aff. ¶ 13.

186. Lieutenant Kreutz and two members of the QRT rushed in, grabbed Harber, and took him to a PCO cell. Harber Aff. ¶ 14. Before entering the cell, Harber was briefly evaluated by a nurse but was not decontaminated or treated. Harber Aff. ¶ 15.

187. In the PCO cell, the QRT officers instructed Harber to remove his clothes, which he could not do because his hands were still cuffed behind his back. Harber Aff. ¶ 16. The QRT officers then slammed Harber to the floor. Harber Aff. ¶ 17. One placed a knee on Harber's lower neck and upper back area, while the other sat on his feet, even though he was already cuffed and restrained. Harber Aff. ¶ 17.

188. Lieutenant Kreutz told the QRT members to move out of his way, then sprayed Harber's face with Sabre Red again, this time in a continuous stream, rather than a short burst. Harber Aff. ¶ 18. Harber was sprayed from one foot away, if not closer. Harber Aff. ¶ 18.

189. The QRT officers then removed Harber from the PCO cell. Harber Aff. ¶ 21. A nurse evaluated Harber but did not decontaminate or otherwise treat Harber before sending him back to the contaminated PCO cell. Harber Aff. ¶ 21.

190. Once alone in his cell, Harber used water from the sink to wash his eyes. Harber Aff. ¶ 22. He estimates that he couldn't open his eyes for at least one hour. Harber Aff. ¶ 22. Harber was not permitted to shower until 2 days after being sprayed. Harber Aff. ¶ 22.

191. Harber notified the nursing staff at Howard Young of the spraying and need for assistance, but they did nothing but take vitals. Harber Aff. ¶ 27.

192. Harber was never decontaminated. Harber Aff. ¶ 27.6

193. As a result of being sprayed with Sabre Red, Harber still has trouble breathing and now suffers chronic nightmares. Harber Aff. ¶ 23. Harber has seen medical personnel concerning his ongoing breathing issues, but he has not received any medications or breathing treatments. Harber Aff. ¶ 25.

194. Because of the breathing problems, Harber passed out one day and was taken to the hospital. Harber Aff. ¶ 26. The doctor told Harber that the cause of the fainting could not be determined definitively without continued monitoring of his vitals, which he did not receive. Harber Aff. ¶ 26.

195. Until the end of February 2026—more than two months after he was sprayed—Harber remained in the cell where he was sprayed, which was never cleaned. Harber Aff. ¶ 31. The walls, floor, and door were covered with Sabre Red residue, which continued to burn Harber’s skin and exacerbate his breathing problems. Harber Aff. ¶ 31.

196. Harber has filed multiple grievances with the prison about the sprayings, to no avail. Harber Aff. ¶ 30. He has requested his medical records but has not received them. Harber Aff. ¶ 30. And Harber’s mother has called the warden of Howard Young to request a formal investigation but has not received a response. Harber Aff. ¶ 30.

197. On March 17, 2026, Harber submitted another medical grievance requesting aid, because he was still struggling to breathe after having been sprayed with Sabre Red three months earlier. Harber Aff. ¶ 28. On March 20,

2026, Harber was seen by a nurse, who submitted a request for Harber to see a doctor. Harber Aff. ¶ 28.

198. Because of prolonged exposure to Sabre Red without subsequent decontamination, Harber needlessly suffered extreme and persistent pain over the course of multiple days. Harber Aff. ¶¶ 11, 13, 15, 18-23.

199. The failure to decontaminate Harber violated DOC's training instructions.

200. Because Harber was sprayed arbitrarily and without justification, Harber fears that he could be subjected to Sabre Red at any time, without any reason. Harber Aff. ¶ 32.

vii. Brandon Gatewood

201. Brandon Gatewood is currently incarcerated at Howard Young. Gatewood Aff. ¶ 4. At all times relevant to this case, Gatewood was incarcerated at SCI. Gatewood Aff. ¶ 4.

202. In August 2022, Gatewood was eating dinner in his housing tier when another prisoner he did not know approached him from behind and took a swing at him. Gatewood Aff. ¶ 5. Officer Maddox, who was watching from the office, called a code. Gatewood Aff. ¶ 6.

203. Gatewood defended himself, and while he was on the ground with his arms extended, Officer Kolinski approached and sprayed him in his face, without warning. Gatewood Aff. ¶ 7. The canister of Sabre Red was about one foot from Gatewood's face when it was deployed. Gatewood Aff. ¶ 8. Officer Kolinski used a continuous stream of Sabre Red, rather than a short burst. Gatewood Aff. ¶ 8.

204. The Sabre Red burned Gatewood's skin and eyes. Gatewood Aff. ¶ 9. He was unable to open his eyes. Gatewood Aff. ¶ 9.

205. After the incident, correctional officers took Gatewood to see the nurse briefly, where only his vitals were checked. Gatewood Aff. ¶ 10. He was then escorted back to his housing pod. Gatewood Aff. ¶ 10.

206. Officers did not give Gatewood a change of clothes and did not permit him to shower for approximately one full day. Gatewood Aff. ¶ 11. No DOC officer or employee ever decontaminated Gatewood. Gatewood Aff. ¶ 12.

207. As a result of this incident, Gatewood's sense of smell has been greatly diminished. Gatewood Aff. ¶ 13. He can no longer smell food most of the time. Gatewood Aff. ¶ 13.

208. The day following the incident, Gatewood submitted a grievance regarding the incident, but prison officials dismissed it. Gatewood Aff. ¶ 14.

209. Because of prolonged exposure to Sabre Red without subsequent decontamination, Gatewood needlessly suffered extreme and persistent pain for approximately 24 hours. Gatewood Aff. ¶¶ 7-12.

210. The failure to decontaminate Gatewood violated DOC's training instructions.

211. Because Gatewood was sprayed arbitrarily and without justification, Gatewood fears that he could be subjected to Sabre Red at any time, without any reason. Gatewood Aff. ¶ 17.

viii. Waunye Calm

212. Waunye Calm has been incarcerated at Howard Young since August 2025. Calm Aff. ¶ 4. At all times relevant to this case, Calm was incarcerated at Howard Young. Calm Aff. ¶ 4.

213. In November 2025, around 12:00 PM, Calm was waiting in line to receive his medication when he opened the door for another prisoner named Hall. Calm Aff. ¶ 5. As Calm held the door, Hall and a correctional officer began to argue about whether Hall had taken his medication. Calm Aff. ¶ 5. As Hall walked through a doorway, the correctional officer sprayed Hall with Sabre Red. Calm Aff. ¶ 6.

214. Calm, who had done nothing to justify any use of force against him, was hit by the blast of Sabre Red intended for Hall. Calm Aff. ¶ 7. The Sabre Red canister was approximately two feet away from Calm when he was sprayed. Calm Aff. ¶ 7.

215. The correctional officer who sprayed Calm then called a code. Calm Aff. ¶ 8. Responding officers instructed everyone to return to their cells. Calm Aff. ¶ 8.

216. Calm immediately felt the effects of the Sabre Red. Calm Aff. ¶ 10. His eyes welled up with tears, his nose became congested, he started coughing, and he felt burning on his face and body. Calm Aff. ¶ 10.

217. Calm removed his clothes while walking back to his cell because they were doused in Sabre Red. Calm Aff. ¶ 11. In his cell, Calm attempted to wash off the Sabre Red with water from his sink, but the chemical dripped from his face and upper body onto his hands and other parts of his body, causing them to burn

and itch as well. Calm Aff. ¶ 11. Calm attempted to wash the affected areas with soap, but Sabre Red residue contaminated his soap, which spread the burning as he attempted to clean himself. Calm Aff. ¶ 12.

218. No DOC officer or employee ever decontaminated Calm. Calm Aff. ¶ 14. Calm's skin continued to burn and itch for about a week after being sprayed, despite his best attempts to decontaminate himself. Calm Aff. ¶ 15.

219. Because of prolonged exposure to Sabre Red without subsequent decontamination, Calm needlessly suffered extreme and persistent pain over the course of multiple days. Calm Aff. ¶¶ 7, 10-14.

220. The failure to decontaminate Calm violated DOC's and training instructions.

221. Because Calm was sprayed without provoking any use of force against him, Calm fears that he could be subjected to Sabre Red at any time, without any reason. Calm Aff. ¶ 16.

C. Excessive force cases pending in federal court further demonstrate Delaware correctional officers routinely use OC weapons without decontaminating inmates.

222. The incidents involving the named Plaintiffs are just eight examples detailing how Delaware correctional officials deploy OC against prisoners without subsequently decontaminating them—in violation of DOC policy and training requirements. The Plaintiffs' examples are not outliers. As discussed below, recent excessive force lawsuits filed in the U.S. District Court for the District of Delaware have revealed further examples illustrating DOC's widespread practice.

223. In an excessive force case called *Davis v. Neal*, No. 1:21-cv-1773 (D. Del.), dozens of Plaintiffs were sprayed with OC by Delaware correctional officers. ***None of the plaintiffs*** were decontaminated in any way, except for being removed from the area where the spraying occurred. Numerous correctional officers admitted in sworn deposition testimony that they had not properly decontaminated individuals they had sprayed and were not aware of any other correctional officers who had decontaminated them. DOC video of the incidents also shows that the Plaintiffs were not decontaminated, and certainly not in accordance with DOC training requirements.

224. In another pending excessive force case, *Flores v. Emig*, correctional officers assigned to DOC's Correctional Emergency Response Team ("CERT")³⁰ assaulted scores of Plaintiffs in Building 18 at James T. Vaughn, using a variety of OC weapons—including Sabre Red spray, OC grenades, and a pepper-ball launcher. No. 1:25-cv-100 (D. Del.), D.I. 1 (Verified Complaint) ¶¶ 34-163. All but one of the Plaintiffs in that case were sprayed; none was decontaminated in any way, except for being removed from the area where the spraying occurred. *Id.*

225. As detailed below, discovery in *Davis* and *Flores* has revealed scores of incidents, captured on video and confirmed in sworn depositions, in which

³⁰ Unlike QRT, CERT is composed of correctional officers drawn from all Level 5 facilities in Delaware. CERT's purpose is "to perform advanced, high-risk or community operations," to, "provide tactical responses during emergency situations," and to, "assist with escapee/erroneous release operations." Del. Dep't of Corr., *Bureau of Prison*, Robert May, Bureau Chief, Kolawole Akinbayo, Deputy Bureau Chief, https://doc.delaware.gov/views/bureau_of_prison.blade.shtml (last visited Apr. 28, 2026).

Delaware correctional officers disregarded DOC policy concerning OC use and decontamination.

i. Donbray Durham

226. Donbray Durham is a plaintiff in the *Davis* case. Durham is an adult who was formerly incarcerated at SCI. Prison video and sworn deposition testimony revealed that during his intake at SCI, Durham was unable to understand and fully comply with correctional officers' intake instructions because he was intoxicated. Without warning, correctional officers sprayed Durham with Sabre Red at point-blank range.

227. As footage produced by the DOC in the *Davis* case clearly shows,³¹ at the time he was sprayed, Durham was handcuffed behind his back and surrounded by several officers. Officers then slammed Durham to the ground, piled on top of him, and sprayed him again at close range. Durham was then hauled to a holding cell where the officers left him alone, bloody and soaked with OC spray. Handheld prison video footage produced by the DOC in the *Davis* case shows that by the time correctional officers finally came to retrieve Durham from the holding cell, Durham was covered in blood, as were the walls of the holding cell, while Durham wailed and begged officers to tell him why they had sprayed and assaulted him.

228. As the video demonstrates, except for removing Durham from the area where he was sprayed, nobody decontaminated Durham in any way.

³¹ Upon the Court's request, Plaintiff will produce this video for the Court's *in camera* review should DOC refuse to release it from AEO designation.

ii. Isaac Flores

229. Isaac Flores is a plaintiff in the *Flores* case. Flores is an adult presently incarcerated at James T. Vaughn. *Flores v. Emig*, No. 1:25-cv-100 (D. Del.), D.I. 1, Ex. B, Flores Aff. ¶ 3. At all relevant times, Flores was incarcerated at James T. Vaughn. *Id.* In a sworn declaration, Flores attested that around midnight on September 5, 2024, he was sprayed with Sabre Red and assaulted by CERT during its military-style raid on Building 18 at James T. Vaughn. *Id.* at ¶¶ 4-10. With no warning or provocation, an officer sprayed Flores with Sabre Red at close range. *Id.*

230. Officers then sprayed Flores a second time at close range while he was naked, hands cuffed behind his back, bleeding from the mouth, and surrounded by CERT members wearing riot gear. *Id.* at ¶¶ 10-12.

231. Except for removing Flores from the area where he was sprayed, nobody decontaminated Flores in any way, and Flores was not permitted to shower for at least one full day following the incident. *Id.* at ¶¶ 14-17.

232. Flores was written up for allegedly resisting the officers, but his disciplinary punishment was reversed after a hearing examiner determined Flores had neither resisted nor disobeyed the officers. *Id.* at ¶ 18.

iii. Michael Klein

233. Michael Klein, now deceased, was a Plaintiff in the *Davis* case (his Estate has substituted in). At all relevant times, Klein was incarcerated at SCI. During his incarceration, Klein suffered from numerous serious health conditions. Prison video and sworn deposition testimony establishes that on November 23,

2021, a correctional officer sprayed Klein with Sabre Red at point-blank range, without warning or provocation, even though he posed no threat, because Klein allegedly would not roll up the mattress on his bunk. Kameron Spencer Dep. 99:13-19.

234. Prison video clearly shows that, except for removing Klein from the area where he was sprayed, nobody decontaminated Klein in any way after this first spraying. Instead, officers took Klein to a holding cell, where they left him, hands cuffed behind his back.

235. Prison video shows Klein writhing in pain from OC residue. The pain became so excruciating that Klein dunked his face into the toilet bowl in his cell in a futile attempt to obtain relief. After nearly half an hour, officers came to retrieve Klein. But rather than decontaminating him, they took him to an outdoor yard and demanded he engage in an “extra work incentive,” which consisted of moving logs from one location to another. William Chandler Dep. 78:1-18.

236. When Klein refused this blatantly improper order, officers sprayed Klein with Sabre Red a second time at close range, again without warning or provocation. Chandler Dep. 81:14-19. Prison video clearly shows that Klein crumpled to the ground, and officers took him back to the holding cell, where they left him, again with his hands cuffed behind his back.

237. Video shows that facility staff later arrived at the holding cell and placed a spit mask over Klein’s head. Klein’s injuries were so severe that he had to be taken to the emergency room. The use of force expert who examined the footage of Klein’s incident stated: “As a tenured correctional professional, I am appalled

by this senseless and unprofessional practice.” **Exhibit M** (*Davis v. Neal*, Summary Judgment Joint Appendix JA_01879).

238. Except for removing Klein from the areas where he was sprayed, nobody decontaminated him.

iv. Karl Manuel

239. Karl Manuel is an adult presently incarcerated at James T. Vaughn and a Plaintiff in the *Flores* case. At all relevant times, Manuel was incarcerated at James T. Vaughn. In a sworn declaration, Manuel stated that late at night on September 5, 2024, he was also assaulted during the CERT raid on Building 18. Prison video shows that CERT members threw an OC grenade into Manuel’s cell through the door’s food flap, after which eight CERT members rushed into Manuel’s small cell.

240. According to sworn deposition testimony, a CERT member in Manuel’s cell sprayed Manuel with Sabre Red a second time at close range, again without warning or provocation. Todd Koch Dep. 6:7-10.

241. The only correctional officer deposed to date in the *Flores* case admitted under oath that he did not decontaminate Plaintiff Karl Manuel, after he and other correctional officers assaulted Manuel with a pepper grenade and handheld OC spray, and that to his knowledge no one decontaminated Manuel. Todd Koch Dep. 117:2-8. After watching video of the Manuel incident and its aftermath, the Major who oversees the CERT admitted at his deposition that no one decontaminated Karl Manuel. Wayne Beall Dep. 196:24 – 197:4.

v. Brian Snowden

242. Brian Snowden is an adult presently incarcerated at James T. Vaughn and a Plaintiff in the *Flores* case. At all times relevant to this paragraph, Snowden was incarcerated at James T. Vaughn. *Flores v. Emig*, No. 1:25-cv-100 (D. Del.), D.I. 1, Ex. A (Snowden Decl.) ¶¶ 3-4. Snowden, too, was caught up in the CERT raid on Building 18 in September 2024. *Id.* In a sworn declaration, Snowden stated that while he was complying with orders from the CERT members who stormed his cell, an officer sprayed Snowden at close range, without warning or provocation, dousing Snowden and his clothes in OC. (*Id.* at ¶¶ 5-6.)

243. Officers cuffed Snowden, removed him from his cell, and ordered him to sit on the ground and cross his legs. (*Id.* at ¶¶ 8-10.) Snowden attempted to comply, but when he crossed his legs, the Sabre Red on his boxers burned his genitals. (*Id.* at ¶ 10.) When he uncrossed them, an officer sprayed him at close range for a second time, holding the actuator until the canister had been emptied onto Snowden's face, hair, and beard. (*Id.* at ¶ 11.)

244. Officers threatened Snowden when he attempted to spit out the OC in his mouth. (*Id.* at ¶ 12.) He was forced to swallow the OC in fear for his life. (*Id.* at ¶ 13.)

245. Except for removing Snowden from the area where he was sprayed, nobody decontaminated Snowden, who was left in a holding cell and was not permitted to shower for at least one full day after the incident. (*Id.* at ¶ 16.)

vi. Charles Turner

246. Charles Turner, an adult who is no longer incarcerated, is a Plaintiff in the *Davis v. Neal* case. At all relevant times, Turner was incarcerated at SCI. Turner testified under oath in the *Davis* case that on February 21, 2021, a correctional officer walked up to him from behind and sprayed him in the eyes with Sabre Red at point-blank range. *Davis v. Neal*, No. 1:21-cv-1773 (D. Del.), D.I. 439-10, JA03144-45.

247. Prison video shows that the officer sprayed Turner (who had just arrived at SCI) without warning or provocation, while Turner was placing his phone slip in a box, as instructed by a different officer. The officer then slammed Turner to the ground and sprayed him with Sabre Red at point-blank range a second time, again without warning or provocation.

248. Prison video clearly shows that officers transported Turner to solitary confinement, where he remained for seven days without decontamination. Except for removing him from the area where he was sprayed, nobody decontaminated Turner.

vii. Dwayne Cropper

249. Dwayne Cropper is an adult who at all times relevant to his incident was incarcerated at James T. Vaughn. Cropper is the Plaintiff in another excessive force case related to the use of OC chemical weapons, *Cropper v. Parke*, No. 1:25-cv-812 (D. Del.).

250. Handheld camera footage taken by correctional officer Megan McCarthy and produced to Cropper's counsel by the DOC shows Cropper in his

cell alone, engaging in a conversation with correctional officers outside his cell door.

251. Correctional officers then declare to the camera that Cropper is refusing to obey orders. Without warning Cropper they would use force against him if he did not comply, Officer Robert Mock points a pepperball gun directly at Cropper. He orders Cropper to “come to the door and cuff up,” but before allowing Cropper a chance to comply, Officer Mock—from approximately six-to-seven feet away—begins firing pepperball rounds at Cropper’s head, hands, and feet. In self-defense, Cropper held a blanket up in front of him to try to block the pepperballs.

252. Officer Mock appears to have fired several dozen pepperball rounds at Cropper. One of the pepperballs hit Cropper in the right eye, causing him to crumple to the floor. Officers then stormed the cell in full riot gear to retrieve Cropper.

253. Cropper suffered serious injuries as a result of the pepperball gun, including a globe rupture of his right eye.³²

254. Cropper, who was eventually taken to the hospital to treat his injuries, was not decontaminated per DOC protocol while at James T. Vaughn.

D. DOC’s supposed administrative remedy for individuals assaulted with OC chemical weapons is no remedy at all, as DOC has admitted, and more than one court has already recognized.

³² A globe rupture is where blunt trauma causes the eye’s tough outer wall to tear, potentially allowing the eye’s inner contents to leak out. Cleveland Clinic, *Open Globe Injury*, <https://my.clevelandclinic.org/health/diseases/24532-open-globe-injury> (last updated Dec. 11, 2022).

255. Although the Plaintiffs filed grievances about their spraying incidents through their respective prisons' internal grievance procedures, those grievances have not resulted in any changes to DOC's enforcement of its guidelines regarding OC use and decontamination. To Plaintiffs' knowledge, no correctional officer has been disciplined for violating DOC guidelines relating to proper OC use and decontamination.

256. Future grievances seeking administrative review would therefore be futile.

257. The pending litigation in *Davis* and *Flores* has likewise demonstrated that DOC's supposed grievance process for use of force allegations is so flawed as to not provide a meaningful administrative remedy.

258. In *Davis*, DOC tacitly acknowledged the futility of its administrative remedy by voluntarily withdrawing its exhaustion defense. *See* Stipulation and Proposed Order Regarding Defendants' Affirmative Defenses, No. 1:21-cv-01773, Dkt. 97, at 1-2 (D. Del. Dec. 20, 2023) (withdrawing DOC's affirmative defense that Plaintiffs failed to exhaust their administrative remedies), attached as **Exhibit N**.

259. And in *Flores*, the court rejected the DOC Defendants' failure-to-exhaust defense. **Exhibit O**, No. 1:25-cv-100, Dkt. 38, at 9-10 (D. Del. June 9, 2025) (citing additional cases). The court held that "Plaintiffs sufficiently plead that those [administrative] remedies were not available" and "Defendants do not point to anything in 'the pleadings, public record, orders, exhibits attached to the complaint, and documents incorporated into the complaint by reference' that

would otherwise indicate that the administrative remedy was available to plaintiffs.” *Id.* at 10. The court additionally noted that the grievance instructions are “are ‘confusing at best.’” *Id.* at 9.

260. Notwithstanding that Plaintiffs have filed grievances about their spraying incidents, any requirement that other members of the Class to exhaust administrative remedies should not apply in this case because Delaware prisoners face an ongoing and immediate risk of being arbitrarily assaulted with OC chemical weapons unless and until Delaware correctional officers begin complying with DOC policy and training mandates. The public interest in fair application of use of force in Delaware prisons—and adherence to the Delaware Constitution’s ban on cruel punishment—strongly favors granting immediate, class-wide relief.

CLASS ACTION ALLEGATIONS

261. Plaintiffs bring this action pursuant to Rule 23 of the Rules of the Delaware Court of Chancery, seeking injunctive relief individually, and on behalf of the following Class: All individuals incarcerated in the State of Delaware.

262. This action is properly maintainable as a class action.

263. Although Plaintiffs do not know the exact number of Class members, there are thousands of people incarcerated in Delaware.³³ Class members are so numerous that joinder is impracticable.

³³ The DOC home page states that there are 3,407 convicted prisoners and 1,047 pre-trial detainees, for a total of 4,454 incarcerated people. <https://doc.delaware.gov/> (last visited April 28, 2026).

264. This Verified Complaint presents a question of law common to the Class: whether the pervasive and improper use of OC without any decontamination may be enjoined because it violates the cruel punishment clause found in Article I, Section 11 of the Delaware Constitution.

265. Plaintiffs' claims are typical of the claims of the Class because all incarcerated people in Delaware are exposed to the use of OC weapons without decontamination.

266. Plaintiffs will fairly and adequately protect the interests of the Class.

267. Defendant has acted or refused to act on grounds generally applicable to, and causing injury to, the Class.

268. The prosecution of separate actions could risk inconsistent adjudications, establishing incompatible standards of conduct for Defendant.

269. Plaintiffs have retained competent counsel experienced in the prosecution of prisoner litigation.

270. All representative Plaintiffs have personal and significant familiarity with the facts and issues involved in this claim, and there are no Plaintiff interests antagonistic to the Class.

271. Class action treatment is a superior method for fair and efficient adjudication of this controversy. It will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would require.

272. Plaintiffs know of no difficulties with maintaining this case as a class action.

273. Plaintiffs have defined members of the Class based on currently available information and hereby reserve the right to amend the definition of members of the Class.

274. The reasons why this case can and should be maintained as a class action are set forth more completely in the Motion for Class Certification filed contemporaneously with this Verified Complaint.

**COUNT I – CRUEL PUNISHMENT IN VIOLATION OF THE
DELAWARE BILL OF RIGHTS**

275. Plaintiffs incorporate by reference all foregoing allegations in this Verified Complaint, as if fully set forth herein.

276. Article I, Section 11 of the Delaware Bill of Rights states in its entirety: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.”

277. As set forth in detail in this Verified Complaint, DOC’s improper and dangerous use of OC on prisoners, without decontaminating the sprayed individuals, is cruel.

278. DOC’s conduct therefore violates Delaware’s constitutional prohibition on cruel punishment.

279. The Department’s refusal to enforce its own policy and training requirements—especially in light of the facts revealed in pending litigation

discussed above—shows that DOC does not intend to decontaminate sprayed individuals without this Court’s intervention and underscores the need for urgent and comprehensive statewide relief for prisoners.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- A. A preliminary and permanent injunction enjoining Delaware correctional officers and all other DOC employees from using OC against the Class until such time as Defendant:
 - (1) ensures that Delaware correctional officers comply with DOC’s preexisting policy prohibiting the improper use of OC and requiring prompt and effective decontamination consistent with manufacturer instructions, which establishes appropriate penalties for improper use or for failure to decontaminate, up to and including termination, or
 - (2) that Defendant implements such a policy if it is not already in place.
- B. A declaration, pursuant to 10 *Del. C.* § 6501, that failing to promptly decontaminate individuals sprayed with OC violates the Delaware Constitution’s ban on cruel punishment.
- C. Attorney’s fees and expenses pursuant to Chancery Court Rule 23(g);
- D. And any and all further relief that the Court deems just and proper.

Dated: May 7, 2026

/s/ Jason H. Beehler
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a courtesy copy of the foregoing *Plaintiffs' Verified Complaint for Injunctive Relief Against Defendant Terra Taylor* upon the following by email this 7th day of May, 2026:

Mike Gordon
Deputy Attorney General, Department of Correction
Delaware Department of Justice, Civil Division
Carvel State Building, 6th Floor
Wilmington, DE 19801
MichaelJ.Gordon@delaware.gov

/s/ Jason H. Beehler _____
Jason H. Beehler (DE Bar # 7480)