



CHIEF DEFENDERS ASSOCIATION OF NEW YORK

MEMORANDUM IN SUPPORT FOR LEGISLATION ENACTING A PROHIBITION AGAINST THE USE OF CHEMICAL AGENTS BY POLICE AGAINST CHILDREN S4002 (Brouk) / A5449 (Meeks)

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Pepper spray is designed to incapacitate a threatening individual by causing intense irritation to the eyes, skin, nose, and lungs. It is deeply unpleasant, causing feelings of burning and pain, temporary blindness, and difficulty breathing. For these reasons, its purchase is strictly regulated in the State of New York, and those with felony and misdemeanor assault records may not possess it. Police department General Orders generally require an ambulance to respond when this irritant is used by members of law enforcement.

The membership of the Chief Defenders Association of New York State (CDANY) observed with shock and horror as the above described weapon was recently utilized on a defenseless, handcuffed 9 year old girl by members of the Rochester Police Department. The child was experiencing a mental health crisis and was crying out for her father; she was being placed in a police car by several adult police officers. The use of pepper spray in this instance was completely inexcusable.

For this reason and to protect children in our communities in the future, CDANY submits this memorandum in support of S4002 (Brouk)/A5449 (Meeks). This Bill is a necessary and obvious first step in police reform, and CDANY urges its immediate passage.

This bill would ban the use of chemical agents like pepper spray by police officers against children. The use of chemical agents put children at risk for both immediate and significant physical harm, and long-term emotional trauma. Chemical agents like pepper spray are prohibited in all New York youth justice detention and placement facilities statewide because—as it should go without saying—it is unacceptable to pepper spray children. The same rule should also protect the children in New York's neighborhoods and communities.

This legislation represents a critical part of the broader need to address the disparate treatment of Black boys and girls in policing, and to eliminate the common practice of treating these children like adults. The bill is particularly necessary to disrupt the school to prison pipeline in Communities of Color, where

Black boys and girls are disproportionately policed¹ and overrepresented in the juvenile justice system². Children with disabilities, including those struggling with mental health issues and those with developmental disabilities, are also far more likely to face police interventions than their able-bodied and neurotypical counterparts³; this bill is crucial for their protection as well.

If you have any questions about the bill, please contact Laurette Mulry, CDANY President.

1 Black boys are more likely to be perceived as older than their age, and more threatening. "The Essence of Innocence: Consequences of Dehumanizing Black Children," *Journal of Personality and Social Psychology*, published online Feb. 24, 2014; Phillip Atiba Goff, PhD, and Matthew Christian Jackson, PhD; University of California, Los Angeles; Brooke Allison, PhD, and Lewis Di Leone, PhD, National Center for Post-Traumatic Stress Disorder, Boston; Carmen Marie Culotta, PhD, Pennsylvania State University; and Natalie Ann DiTomasso, JD, University of Pennsylvania. The ACLU reports that Black girls are twice as likely to be arrested in New York as their White counterparts. <https://www.aclu.org/issues/racial-justice/race-and-inequality-education/black-white-girl-school-arrest-risk>

2 The Youth Justice Research Collaborative found that between June and September of 2019, though youth arrests decreased overall, nearly all youth arrested in New York City were Black (61 percent) or Latinx (32 percent), and the vast majority were male (85 percent). <https://opencuny.org/yjrc/reports-data/policy-brief-evaluating-rta/>

3 Students with disabilities were nearly three times more likely to be arrested than students without disabilities, and the risk is multiplied at schools with police. "Cops and No Counselors," <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>, citing 2015-2016 US Department of Education Civil Rights Data Collection (CRDC).